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Public Bill Committee

NUCLEAR ENERGY (FINANCING) BILL

Fourth Sitting

Thursday 18 November 2021

(Afternoon)

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Monday 22 November 2021

The Committee consisted of the following Members:

Chairs: † Yvonne Fovargue, James Gray

† Baker, Duncan *(North Norfolk)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Brown, Alan *(Kilmarnock and Loudoun)* (SNP)
Browne, Anthony *(South Cambridgeshire)* (Con)
† Cairns, Alun *(Vale of Glamorgan)* (Con)
† Crosbie, Virginia *(Ynys Môn)* (Con)
† Doyle-Price, Jackie *(Thurrock)* (Con)
Duffield, Rosie *(Canterbury)* (Lab)
† Fletcher, Mark *(Bolsover)* (Con)
† Hands, Greg *(Minister of State, Department for Business, Energy and Industrial Strategy)*
† Jenkinson, Mark *(Workington)* (Con)
† Owen, Sarah *(Luton North)* (Lab)
† Pennycook, Matthew *(Greenwich and Woolwich)* (Lab)
† Wallis, Dr Jamie *(Bridgend)* (Con)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)
Whitley, Mick *(Birkenhead)* (Lab)
Whittaker, Craig *(Lord Commissioner of Her Majesty's Treasury)*

Sarah Ioannou, Rob Page, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 18 November 2021

(Afternoon)

[Yvonne Fovargue *in the Chair*]

Nuclear Energy (Financing) Bill

Clause 2

Designation of nuclear company

Amendment proposed (this day): 3, in clause 2, page 2, line 14, at end insert—

"(c) the Secretary of State is of the opinion that the nuclear company is able to complete the nuclear project."—*(Dr Whitehead.)*

This amendment requires the Secretary of State to give a view that a designated nuclear company is able to complete the project for which it is designated.

2 pm

Question again proposed, That the amendment be made.

The Minister of State, Department for Business, Energy and Industrial Strategy (Greg Hands): Welcome back to the Chair, Ms Fovargue.

I believe that the intent of the amendment is already captured in the approvals framework for the regulated asset base. That includes the process for designating a project and then modifying its licence, and wider due diligence on the project. The Government simply would not allow a company to enter into a RAB revenue collection contract if there were cause to doubt the ability of the company to complete construction, a point made slightly more pithily by my hon. Friend the Member for Bridgend in his intervention on the shadow Minister, the hon. Member for Southampton, Test. We expect to say more about how the Secretary of State will make this judgment in our statement on the designation criteria, which we will publish in advance of any consultation on designation.

Before considering the matter of licences, let me return to the question asked earlier by the hon. Member for Kilmarnock and Loudoun. Sizewell C does have a licence, as within the terms of clause 1(2). He said that he could not find the link to the licence on the Ofgem website, so I will commit to write to him, copied to the Committee, with that link.

Designation is very much the first step in the process of amending a developer's licence to include the RAB conditions. At the point of designation, no commitments have been made; a project will be under development, and further negotiation is required between the developer and the Government. The process is open and transparent and includes consultation at several stages, meaning that a project will be designated only at an appropriate point.

Let me deal with the points raised about various RAB projects in the United States. It is not unreasonable to look at foreign experiences, but it is important to separate the experience of another country in developing and delivering a nuclear power plant from what part of that experience was due to a RAB model. There were several unique circumstances linked to the failure of the South Carolina Virgil C. Summer project, which was referred to, and the parent company, including—*[Interruption.]* I beg your pardon?

Dr Alan Whitehead (Southampton, Test) (Lab): Sorry. I was just wondering to myself whether the Minister had looked all this up during lunchtime. If so, I congratulate him on doing so.

Greg Hands: I thank the hon. Gentleman for that intervention—I think it was an intervention—from a sedentary position. As the Energy Minister, I have to be aware of what is going on in the world of nuclear globally, so no, I did not look it up during lunchtime, actually; I have looked into this and other US plants. The failure of the Virgil C. Summer project—I think that is the one he was referring to—and the parent company included arrests and a conviction for fraud. There were also issues linked to design and supply chain immaturity, as well as a lack of experience with the construction of new nuclear projects. Those issues are pretty far removed from its status as a RAB project. I do not think those risks in South Carolina are applicable to the UK.

Dr Whitehead: I fully accept that the Minister did not look that up at lunchtime and that he is fully apprised of the circumstances surrounding the South Carolina project. However, does he not accept that the issues that he has mentioned as relevant to the failure of that project—it was entered into without proper consideration of a lot of things that, as he said, were at least in part responsible for its failure—are precisely the sorts of issues that we would expect him to take into account and sort out before deciding on the designation of a project in this country?

Greg Hands: Broadly speaking, the answer is yes. I think that all of those factors, if known at the time, would be considered when the Secretary of State makes the designation. That is the point. Of course they would be factors, were they to be known. I cannot put myself in the shoes of the governor of South Carolina—if indeed it was the governor of South Carolina who made the decision—but if he were or had been of the opinion that the project could not have been completed, he would surely not have made the designation at that time. I am slightly hesitant to stray into the politics of South Carolina, but doubtless the governor was of the opinion at that time that the project would have been completed. The hon. Gentleman uses South Carolina as an example, but I do not think that his amendment would have helped the governor make that decision.

This is not just a question of the factors, which are already covered in the Secretary of State's determination of a RAB designation. The timing is also important. A project has to go through many stages and approvals post designation of a RAB. To include the hon. Gentleman's additional definition at this stage might be premature, though I doubt it is needed at all, for the reasons pithily put by my hon. Friend the Member for Bridgend about the chances of the person making the decision being of the view that the project might not be completed. If that were the case, I think it would be a highly material fact in determining whether to designate a RAB. I do not

believe that this amendment is necessary in order to meet the laudable objectives that Opposition Members seek to achieve. I therefore ask the hon. Gentleman to withdraw the amendment.

Dr Whitehead: I hear what the Minister says about the amendment, but I am not entirely convinced that he has made the case that he thinks he has made as to why this addition is not necessary for the designation process. After all, we are not talking here about a particularly adept and alert Minister in a particular Administration taking a decision on Sizewell C. As the Minister has said, this Bill is supposed to deal with decisions that might be taken under other circumstances, for other projects, at other times, with other Ministers, and possibly other Administrations. It is important that we put in legislation everything that we think could go wrong with a project and its designation process, so that the legislation is robust for the future.

On South Carolina, the Minister is right. The project failed as a result of a series of interlocking issues. Those issues were not necessarily associated with the RAB process, which is what we are considering in this Bill, but there were wider concerns that should have been apparent to legislators in South Carolina when the project was commissioned and went ahead. Many of the things that the Minister alluded to that occurred in South Carolina were not unforeseeable events. They were events that could have been analysed out at the time of the designation of the plant. Essentially the amendment seeks to address that issue.

We will not press this amendment to a vote—indeed, we will withdraw it—but we have put on the record our belief that the Secretary of State should have a very substantial hand in ensuring, as far as possible, that the project really can come to completion. I am sure that the Minister is with me on that and agrees that that should be the process by which we conduct designation.

Even if it is not explicitly in the Bill, the fact that the Minister has indicated that he thinks that a number of these issues can be covered within the designation elements is perhaps a step along the path to ensuring that these processes can be carried out properly. I do not wish to proceed with the amendment on that basis, but we need to do a proper job at the point of designation, for the protection of investors, for the project and for the customers who pay for it.

Greg Hands: Just to probe the hon. Gentleman on this, if I may, one of the criteria is whether the project is sufficiently developed to warrant a RAB. At what point does he think that the fact that the person making the decision might not necessarily think it would be completed would mean that they do not think it is sufficiently developed to start the process? Surely, if they did not think it was going to finish, they would not think it was ready to start either?

Dr Whitehead: The Minister puts that as a binary choice, but it is not because there are circumstances. That is essentially what happened in South Carolina. A number of people thought that it was a fine project that would go ahead; they put forward impossible timelines for the project to work on, there were very difficult financing arrangements and the RAB was placed on top of that. Yes, they may have thought that the project could come to completion, but it was not a very well-founded thought, and nor was it arrived at on the basis of the sort of diligence we should expect from the approach to a project the size of, say, Sizewell C.

The amendment's intention is not to make the Secretary of State make a choice based on a potential view, when designating a project, that it might not be completed. He should do all that work, and indeed be publicly accountable for it, when ensuring that his view is as well founded as possible and that it will stand the test of time as the project progresses. There are points of landing between knowing whether a project is not going to be completed, and being sure that it is going to be completed. When making a designation, the Secretary of State should be held accountable for arriving at an informed position, which can be scrutinised in future, on whether it is reasonable and realistic to say that a project is likely to be completed. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Greg Hands: This clause, through subsection (1), gives power to the Secretary of State to designate by notice a nuclear company to benefit from a RAB. The later provisions of this part mean that the designation power can only be exercised with appropriate protections and transparency of decision making. Subsection (3) sets out the criteria a company must meet to be eligible for designation: that the Secretary of State must be of the opinion that, as previously debated, the nuclear project is sufficiently advanced to justify the designation, and that designating the company in relation to the project is likely to result in value for money. In considering value for money, it is expected that the Secretary of State will take into account considerations such as the cost to consumers and the impact on our net zero obligations. As set out in clause 3, the Secretary of State will be obliged to publish details on the process that he will follow when assessing whether the criteria are met.

The eligibility criteria offer important protections for consumers and taxpayers. A company can have access to a RAB only when the Secretary of State is convinced that it is a good project and sufficiently advanced, and where the likelihood of cost overruns is remote. The Secretary of State will also need to consider whether using the RAB to fund the project is likely to represent value for money.

2.15 pm

Alan Brown (Kilmarnock and Loudoun) (SNP): I will come to this in my own comments, but is it not the case that the Secretary of State gets to sign off whether he thinks a project is value for money and sufficiently advanced, and then a statement is published giving the reasons for that? However, the Secretary of State gets to write the rules for the sign-off. Is it not the case that no clear structure or checklist will be gone through so that the Secretary of State can sign off such projects?

Greg Hands: I disagree with the hon. Gentleman. I think that the process and the checklist is set out pretty well. If he would like, I can run through how the process works when we get to the later clauses and look at the specifics of the process. It might appropriate to take him through that.

[Greg Hands]

When considering value for money, the Secretary of State is expected to have regard to the cost to consumers, future security of supply and our decarbonisation targets. The Secretary of State can designate multiple nuclear companies at any given time, so more than one project can be designated for a RAB at the same time, but the designation criteria, project status and likely value for money will be applied individually to each project.

Alan Brown: Following on from my intervention, I have real concerns about the clause—we will come later to clause 3—and the lack of transparency in what constitutes value for money. In signing off projects, the Secretary of State has to give an opinion on whether they are suitably advanced to justify a designation, but what constitutes "suitably advanced"? What considerations must the Secretary of State be compelled to make to ensure that a project is suitably advanced to give the correct level of detail and analysis for cost definition in sign-off? We should bear in mind that sign-off for a 60-year contract ties up consumers.

I do not see those considerations in the Bill. The Minister said that he would take the Committee through them, but how does the Secretary of State consider how suitably advanced a project is? Does there have to be a working prototype? There is no working prototype of the evolutionary power reactor model generating electricity to the grid. The projects in France and Finland are years late, over cost and still not connected to the grid—and, as I said earlier, the Taishan 1 EPR is now offline due to safety concerns. How can the Secretary of State have any confidence that a project such as Sizewell C is suitably advanced when there is no working prototype?

What other permissions need to be taken into account to determine whether a project is suitably advanced? Does it need to have planning permission? Does it need to have gone through all its environmental appraisals and have all its environmental approvals in place? Are there other things to consider? How far is outline design to be developed? Is there a level of detail to consider to determine whether a project is suitably advanced? How much site investigation work needs to be undertaken before a Secretary of State can have confidence that a project is suitable advanced, bearing in mind the cost of a 60-year contract? Should consideration be given to a company's track record on deliverability? That takes us full circle to how there is not an EPR up and running. In a way, that touches on what the shadow Minister said about having confidence that a project can be delivered when not one project has yet been delivered successfully.

The Government are in advanced negotiations on Sizewell C, which is the most well developed nuclear project at the moment. Does it come close to the definition of "sufficiently advanced" or does a lot more work need to be done? That takes us full circle back to the discussions earlier about the £1.7 billion allocated in the Red Book. The Minister has still not given us any clarity on what the £1.7 billion is for. Is it to allow the Sizewell C company to develop the project further to get it to a position that the Secretary of State thinks is sufficiently advanced? That would mean that, by default, the Secretary of State knows what "sufficiently advanced" means, so we should be able to understand what the £1.7 billion is going to pay for. Hopefully, all that can be explained.

EDF has claimed it is using Hinkley as a prototype that it will replicate at Sizewell C. It will accrue savings and just move the design almost lock, stock and barrel from Hinkley into the footprint at Sizewell C. I would have thought that, by default, that means the project is sufficiently advanced such that we do not need the £1.7 billion to advance it any further. A bit of clarity on that would be useful.

We need a lot more clarity on subsection (3)(b). What is the process for the Secretary of State assessing and giving the opinion that

"the project is likely to result in value for money"?

What are the intended governance and transparency protocols? We have spoken about the designation in a statement, but there is no clarity on what the Secretary of State will consider and what will be provided in the statement.

In recent months we have had the dodgy covid contracts. How do we ensure good faith rather than backroom negotiations and that there is public trust in what goes on in the signing-off of contracts? When I asked the Treasury a written question about the £1.7 billion and the discussions the Chancellor has had, the answer I was given was:

"Details of any meetings with companies regarding funding are commercially sensitive."

If the Treasury will not even tell me who it is meeting and when, how can we have any comfort about what goes on behind closed doors in respect of the negotiations and the assessment of value for money? I hope to come back to value for money later in Committee, because I have tabled a relevant new clause.

It seems to me that as it stands, subsection (3)(b) means nothing, other than that the Secretary of State can rubber-stamp something that he believes to be value for money. Let us bear in mind that this is the Government who told us that Hinkley was value for money, even though everybody argued that the strike rate was too high. With this Bill, they are telling us that Hinkley was actually a rubbish deal, so we need the RAB model in the Bill to save taxpayers' money.

The Government explained on Second Reading that a contract for difference had to be used for Hinkley because it was the first of a kind, so all the risk was on the developer, but that raises further questions. If a CfD was needed for Hinkley because it was the first of a kind in the UK, how on earth can the Government make a final decision to proceed with Sizewell C under a RAB model before Hinkley is even operational?

Hinkley is 25% over budget and at least a year late, with a possible further 15-month delay on top of that. How can the Government have any confidence in signing off on something like Sizewell C, for which the impact assessment talks about a 2023 construction start date? How can that project be anywhere close to "sufficiently advanced"? How can the Secretary of State do a proper value-for-money assessment given all the outstanding issues with Hinkley?

As I said, we need a lot more clarity on that £1.7 billion. Is that going to be the way forward in future? Is it the intention that, for a project to get to a stage where it is sufficiently advanced and the Secretary of State can make a value-for-money assessment, something like £1.7 billion

will be allocated to each developer that is in the mix for a new nuclear project? That is crucial for value for money overall.

Paragraph 50 of the explanatory notes gives four criteria that might be used to consider value for money, but three of them are just the traditional Government tropes to justify nuclear in the first place: security of supply, low-carbon electricity and net zero targets. The Minister alluded to that in his opening speech. Those same arguments have been put forward to justify new nuclear for the past 15 years. We still do not have a new nuclear plant operational, so when the Secretary of State looks at the reasons for value for money, it will be very easy because those are the arguments that they will use.

In particular, the security of supply argument was used to justify Hinkley, but Hinkley was supposed to be required by December 2017 to stop the lights going out. It will not be operational for at least 10 years after that original date, and the lights have not gone out, so security of supply is almost a nonsense argument for value for money. That confirms to me that the criteria are too loose and will be too easy. There will be a lack of transparency, but the Secretary of State will sign it off and say, "Yes, I think the project is value for money." Again, we have this Bill because they are desperate to get Sizewell signed off at any cost.

In conclusion, for me the clause is too loose and too vague. It is set up to encourage backroom negotiations without transparency. At the very least, it would be nice if the Government conceded to an independent assessment of the risks and value for money for consumers. That was suggested in the witness session on Tuesday by Citizens Advice. I look forward to the Minister's response, but he will have to go a long way to satisfy me that there is a robust procedure in place to assess value for money and how suitably advanced the project is for designation.

Greg Hands: I thank the hon. Gentleman for that varying and detailed speech on clause 2. I will try to deal with each of his points. First, he raised a series of additional factors that could be considered by the Secretary of State. He might have tabled an amendment, for example, on what those additional factors might be. I do not think I have seen any amendments tabled by the Scottish National party, but he might have perhaps tabled one in the same way that the official Opposition did as a test. My initial response is that the additional factors he raised would be covered by the two criteria on whether it is value for money and sufficiently advanced, so his additional criteria would be encompassed by the two processes that are already there. Perhaps he can table an amendment to deal with where he would specifically like something added.

The hon. Gentleman asked about the £1.7 billion. We have been clear, while remaining consistent with the fact that this is a commercial negotiation, that the funding is to bring a project to a final investment decision in this Parliament, subject to value for money and all relevant approvals. That could include development stage funding to support the maturation of the project to de-risk it. It could also include some Government investment at the point of a transaction, helping to mobilise other private sector capital. It is already laid out in detail in the Budget document. It was debated at Budget, and I reiterate it today. That there is a limit to how much additional information I can put out on something when ultimately the background is that it is a commercial negotiation.

Alan Brown: Earlier, the Minister talked about UK pension funds as well in terms of levering in capital. Is some of the £1.7 billion going to be matched funding with pension funds, for example, or is it to provide some guarantees so that the pension fund can invest at a guaranteed rate of return, where the guaranteed rate of return comes from the taxpayer?

Greg Hands: I am not going to add anything on the £1.7 billion, which is a separate process and a separate factor to the Bill. I have nothing further to add. I have given sufficient detail of where the £1.7 billion might be spent. Where it will be spent is properly a matter for which the background is the commercial negotiation.

The hon. Gentleman mentioned delays at Hinkley Point C. He is in danger of arguing with himself at times. At one point he argued that we had not brought a nuclear project to a final investment decision, or we had brought only one in the last decade. Then he said that we should wait to make a decision on Sizewell C until we had Hinkley Point up and running. It sounds to me as if he wants to have it both ways—

Alan Brown: I want it no ways.

Greg Hands: He is saying we are either moving too quickly or too slowly. Ms Fovargue, it reflects back to the starting position. If the hon. Gentleman does not mind me saying it, I think he is opposed to nuclear power per se. I suspect he is less interested in whether it is going too quickly or too slowly, to be frank, and it would be helpful if he gave us a straight view as to whether we are being too quick or too slow.

2.30 pm

The hon. Gentleman raised alleged overruns at Hinkley Point C, which he rightly acknowledged is the first new nuclear power station project in a generation. It is natural for parts of a project like that to be susceptible to overruns. Nevertheless, we have identified the causes of them, including the estimation of construction quantities and the impact of covid on it, and the cost of these errors has been resolved at Hinkley Point C.

Most importantly for this Committee, the corrected information is being used in Sizewell C estimates. We have learned from the experience of what the hon. Gentleman rightly acknowledged was an innovative project and the first new nuclear power station in 20 years. The achievement of an engineering baseline at Hinkley Point C will be used to form the baseline for Sizewell C. This will mitigate the recurrence of the core engineering delivery issues experienced at Hinkley Point C.

The hon. Gentleman asked about sharing the value for money assessments before approving the project. On this, the Bill requires the Secretary of State to publish a statement setting out how they will judge a company's suitability for a RAB against the designation criteria, including how likely the project is to be good value for money, which encompasses quite a few of his concerns. We will publish this statement in due course and in advance of any consultation on the reasons for designating a company for a RAB. The Secretary of State will also consult on draft reasons for designating companies as named parties before making any final decisions.

That is a little bit more information on that process, Ms Fovargue, and on that basis I urge the Committee to support the clause.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

DESIGNATION: PROCEDURE

Dr Whitehead: I beg to move amendment 4, in clause 3, page 2, line 37, at end insert—

"(5) Prior to consulting persons under subsection (3)(g), the Secretary of State must publish a statement setting out why it is relevant to consult those persons."

This amendment requires the Secretary of State to indicate the relevance of the people he is consulting on the designation of a nuclear company.

The amendment, and another couple that relate to clauses further down the order paper, need not detain us for long. They essentially seek to improve the effect of the text of the Bill and are not controversial.

Amendment 4 applies to clause 3, on page 2 and requires the Secretary of State to

"publish a statement setting out why it is relevant to consult those persons."

That refers to the list of those people who are to be consulted upon the designation of a nuclear company. At the bottom of that list is the phrase

"such other persons as the Secretary of State considers appropriate."

I appreciate that is often seen in Bills and I am sure hon. Members have seen it in their time in other Committees, but I suggest that it is rather loose arrangement if we want to have a Bill that will stand the test of time. While it is a catch-all arrangement, one could almost ask why the other categories are listed. One might as well just put, "Those persons who the Secretary of State considers appropriate."

Surely, where the Secretary of State is considering consulting other people, in addition to those listed, those people ought to be relevant to the designation of the nuclear company. As the Bill stands, it is just people

"the Secretary of State considers appropriate."

Kirsty Blackman (Aberdeen North) (SNP): I am slightly confused about why the hon. Member seems to be suggesting that it is a bad thing for the Secretary of State to undertake more consultation. Surely more consultation is a good thing. Generally, the Opposition call for more transparency. If the Secretary of State feels that it is necessary to consult more people, I am not hugely convinced that there is a point to making him justify that.

Dr Whitehead: I hope that the hon. Member will forgive me if I have not made myself clear. I am certainly not saying that consultation is a bad thing or that there should be less of it; I am saying that the Bill appears to provide for consultation with all the people named in it and anybody else the Secretary of State feels like including. One may think that that is a good thing, but I would have thought that anyone else the Secretary of State feels like including ought to be relevant to the designation of the nuclear company. All the amendment asks is that, when and if the Secretary of State decides that people other than those who were already on the list be consulted, he publish a statement to say why the people he has selected for additional consultation are relevant to the issue in hand. Otherwise in principle it would be possible for the Secretary of State simply to choose a random number of people off the street and consult them. That would not serve the cause of further consultation and transparency.

Kirsty Blackman: May I check that an alternative amendment could have been to change the last word in subsection (3)(g) to "relevant" rather than "appropriate", which would mean that the Secretary of State would be able to consult all the other people he considered to be relevant, rather than appropriate? Is that the direction in which the hon. Member is trying to go with his amendment?

Dr Whitehead: Indeed. The hon. Member has drafted her own, perhaps more succinct, amendment on the fly. I would welcome hon. Members tabling amendments if they feel that they can do it better, or more succinctly, than we can. She is right that it is a test of the relevance of the consultation process. Her suggestion does not quite cover the point because I would like the Secretary of State to say why those people are being consulted. Essentially, the amendment requires the Secretary of State to not just think that people are relevant but tell us why. It is not a big point, but I think that would improve the Bill a little were it to be accepted.

Greg Hands: I thank the hon. Members for Southampton, Test and for Greenwich and Woolwich for amendment 4, which amends the clause governing the process by which the Secretary of State can designate a company. As part of the process, the Secretary of State must consult a named list of persons, including the authority, Ofgem, the Office for Nuclear Regulation and the relevant environment agency. The Secretary of State will also be able to consult, of course, such other persons as they deem appropriate at that time. The amendment would require the Secretary of State to publish the reasons for consulting those persons not named in the legislation.

Of course it is important for us to be transparent, and I welcome the intention of the amendment to increase transparency and accountability throughout the process, but it might help if I set out the intention of the consultation requirement in clause 3. The Government have agreed a set of persons that they feel must be consulted: the Office for Nuclear Regulation, Ofgem, the relevant environmental agencies and the devolved Administrations in the event that all or part of one of the plants be located in one of the devolved nations of the United Kingdom. The ones who must be consulted include the key regulatory bodies for nuclear generators in Great Britain.

Alongside that, for each designation, there may be other relevant parties that the Secretary of State thinks it is reasonable to consult to inform the draft reasons for designation. That sort of provision is standard practice. The clause is modelled closely on existing consultation obligations in the Energy Act 2013, which allows the Secretary of State to consult other persons without the requirement to publish a justification.

I do not seek to reject the amendment because of concerns about transparency. The designation process takes several important steps to ensure transparency, including the publication of a statement on how the designation criteria will be assessed and the publication of the designation notice.

The hon. Member for Southampton, Test says that those consulted ought to be relevant, but I think that the Secretary of State will consult only with those who ought to be relevant rather than, in the terms of the hon. Member for Southampton, Test, a random set of people off the street. The way that governmental processes work is that consultations are supposed to be with people who are relevant. I do not think that including a relatively unprecedented amendment to publish a statement about why it is relevant to consult those persons will help the transparency or the understanding of the decision made by the Secretary of State.

I hope that I have shown hon. Members that the legislation already takes the necessary steps to ensure transparency and that the amendment would go against the established precedent for this kind of provision, which has generally worked well for big Government infrastructure decisions. I therefore ask the hon. Member for Southampton, Test to withdraw the amendment.

Dr Whitehead: I am certainly happy to withdraw the amendment, but in passing I mention that the Minister has drawn attention to the word "must" in clause 3(2), which precedes the people who the Secretary of State is listed as consulting. I am glad that he drew attention to that, because it may reflect on an amendment that I will move later concerning the words "may" and "must". The Minister will know that a regular concern of mine is that legislation needs to be written in the right way concerning the imperatives on the Secretary of State rather than the allowances. We have made progress from that point of view.

Although this clause contains a fairly standard way of putting things, that may just mean that legislation has been slightly lax in the past, which may be considered less than satisfactory in future. I take the Minister's point, however, that it is not an exceptional way of putting things, and I take his assurance that a question of relevance would be in the Secretary of State's mind when he consulted anybody under such circumstances. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Greg Hands: Let me lay out the purpose of clause 3, which is to set out the procedure that the Secretary of State must follow to designate a nuclear company for the purposes of the nuclear RAB model. The clause requires the Secretary of State to undertake various transparency and consultation obligations before a company is designated.

The clause sets out the process. By putting the process in the Bill, the Government are showing their commitment to transparency and openness when designating a company. Prior to the designation of any company, subsection (1) requires the Secretary of State to publish a statement setting out the procedure they expect to follow in determining whether to designate a nuclear company and how they expect to determine that the designation criteria are met.

The Government anticipate that a nuclear company with a generation licence, and which thinks that its project should be funded through a RAB, would approach the Secretary of State. The Secretary of State will then assess the project against the factors set out in the statement, before consulting expert bodies on the designation. That provides opportunities for those directly affected by the potential designation, or with special expertise relevant to the decision, to provide their views on the matter. That includes the Gas and Electricity Markets Authority, the governing body of Ofgem—I will refer to it generally as Ofgem in the course of this debate, for the sake of time—whose primary statutory duty is to protect the interests of consumers.

2.45 pm

The Secretary of State must publish a designation notice as required by subsections (5) and (6). That notice should include a description of any conditions and the reasons for undertaking the designation. While recognising the role of the Secretary of State in negotiating with prospective projects on behalf of consumers and taxpayers, the effect of the clause is to allow transparency over decision making regarding project designation. I therefore urge that the clause stand part of the Bill.

Alan Brown: The Minister spoke about transparency, but as I touched on earlier, it seems to me that clauses 2 and 3 still do not provide transparency. Clause 3(1) gives the Secretary of State the power, in effect, to make things up as they go along. Under paragraph (a), the Secretary of State sets out the procedure that they will follow, so they are setting the rules, and then paragraph (b) allows the Secretary of State to confirm whether the designation criteria that they have already set in clause 2 have been achieved. The criteria in clause 2 are simply these: does the Secretary of State think that the project is advanced enough to be designated and is it value for money?

Effectively, by my logic, the Secretary of State states that the project is advanced enough and is value for money. Then, under clause 3(1), the Secretary of State affirms what rules will be applied to confirm what has already been confirmed—that the project is value for money and suitably advanced. It is a kind of circular argument. If the Secretary of State is determined to sign off on a new nuclear project, which they are, and they are setting the rules that they are going to apply and then they will publish the rationale as to why it has been signed off, that, to me, does not provide proper transparency. It is not things that can be challenged; it is actually just the Secretary of State giving their reasons for why they have signed off.

As I touched on earlier, paragraph 50 of the explanatory notes still does not give enough information, either. It actually gives too much wriggle room for a Secretary of State to be able to sign off, so that is also not robust enough. The Minister challenged me to table amendments, and I can table a new clause at a later date, or we can challenge further, but it is really hard to table amendments to clauses that are so fundamentally flawed. It is hard to actually improve them.

Turning to value for money, the cost to consumers is one of the items that has been suggested, but the Government are also good at saying that a new nuclear power station will add only £x a year to a consumer's electricity bill and therefore it will have minimal impact

[Alan Brown]

on bills. That is a very neat way of trying to argue that a new nuclear station involves minimal cost to consumers, but of course we are talking about a 60-year contract.

In the same vein, the letter from the Minister to all MPs on 26 October stated that a nuclear project starting construction in 2023 will add only a few pounds to bills during the lifetime of the Parliament and only £1 per month during full construction. I will leave to one side the fact that 2023 is a fanciful construction date, but let me break down what the cost of £1 per month per consumer means. According to the Office for National Statistics, there are now 27 million households in Great Britain. According to the Bill's impact assessment, the construction period for unit 1 is estimated to be between 13 and 17 years, plus another year for unit 2, so let us call it a 15-year construction period. That £1 a month per household is circa £5 billion up front. It can be argued that £1 a month is a low cost for consumers, but something like £5 billion is actually being committed. That is why we need more robust ways to evaluate what is the actual cost to consumers and what is value for money.

Let us work backwards from some of the figures in the impact assessment. It is suggested that, under RAB, the capital cost and associated financing for a new nuclear power station could be £63 billion. If we work backwards over a 60-year period, that is still only a few pounds a month, but it is actually £63 billion that we are talking about. That is a huge sum, which could be invested much better elsewhere in other forms of renewable energy. I hope that demonstrates how much wriggle room the Minister and Secretary of State have given themselves with the Bill. In fact, looking at the cost and impact assessment that the Government have quoted, it almost undermines their argument about the justification for new nuclear.

I turn now to subsection (2). Truthfully, it adds little more in the way of transparency. The Secretary of State must provide

"draft reasons for the designation"

and consult stakeholders, but the subsection does not detail how the statutory consultation will be undertaken, the timescales applied to it or, more importantly, what happens to the consultation feedback from the stakeholders whom the Secretary of State consults. Paragraph 54 of the explanatory notes states that a final reasons determination must be published as part of the designation notice, and subsection (5) covers that too. With the way the Bill is currently framed, however, this has the potential to simply be a tick-box consultation exercise. The Secretary of State can consult and stakeholders respond, then the consultation is dismissed out of hand and the final reasons are printed.

Subsection (3)(f) states that the Secretary of State may consult the Scottish Ministers and the Scottish Environment Protection Agency for Scottish projects, so what protection is there for the Scottish Government if they say no? We are implacably opposed to new nuclear, as is current SNP policy and the policy of the Government who have been elected by voters in Scotland since 2007. At the moment, the Scottish Government rely on the national planning policy framework to block new nuclear, but will the Minister confirm that, despite market failure, if somehow a proposal came for a new nuclear project in Scotland, the Bill, along with the United Kingdom Internal Market Act 2020, will not be a way for the UK Government to ram it through? How valid would the consultation with the Scottish Government be? It is not clear in the Bill.

Again, clauses 2 and 3 do not do enough to provide transparency and hold the Government to account. As I say, I would like to amend the clauses and be helpful to the Government, but given that I am opposed to the Bill and that I do not think the clauses are robust enough, it is very difficult to do so.

Kirsty Blackman: It is a pleasure to be able to take part in this Committee. Thank you very much for your excellent work in chairing today's sitting, Ms Fovargue.

I have just been on the Subsidy Control Bill Committee, and the Subsidy Control Bill has an incredible lack of information. We spend a huge amount of time asking for more transparency in that Bill, but this Bill is significantly worse than the Subsidy Control Bill in the lack of information that has been provided. To be honest, I cannot believe that the Bill is actually considered appropriate for primary legislation, because there is a totally stunning lack of info and an absolute lack of transparency.

The Secretary of State has to publish the reasons for the designation. What does that mean? What does the Secretary of State actually have to say in their reasons for the designation? Do they just write, "I think it's a good idea. Let's go for it."? There is not enough information. As my hon. Friend the Member for Kilmarnock and Loudoun asked earlier, does the Secretary of State have to take into account whether there is planning permission in place? Does the Secretary of State have to take into account the licences that have been put in place? It is totally unclear how this is likely to work.

I have a specific question for the Minister in addition to my general dismay at the clause. Subsection (3) talks about the people who have to be consulted. It says that if part of a site is in Scotland, the Scottish Ministers and SEPA have to be consulted. It also says something similar in relation to Wales and England. We know that if something is to be built in a border area, it will likely have cross-border environmental effects, so two environmental agencies could be involved should a project be fairly close to a border.

I would like the Minister to give me some comfort by saying that he would consider consulting more than one environmental agency, because if a project were to be on the border between England and Wales but slightly more on the English side, it might still have environmental impacts in Wales. It would be relevant, therefore, for the Minister to ensure that the consultations are slightly broader than simply where the footprint of the site is, because we know that any large thing that is built—whether it is something as potentially likely to cause massive environmental problems as nuclear or something much less of a potential environmental risk—has wider environmental issues than simply its footprint. It would be useful if the Minister could confirm that he would give consideration to that happening in the event that it is really pretty close to a border.

Greg Hands: I thank the hon. Members for Kilmarnock and Loudoun and for Aberdeen North for their contributions on clause 3. I will try to deal with their points.

It is important to understand the different parts of the process and the transparency involved in the process. The rules are published first; then comes the rationale for the designation, which is consulted on. It is standard practice in a consultation, of course, to take into account the results or the responses made to the consultation. Perhaps the hon. Member for Kilmarnock and Loudoun was trying to characterise it as superfluous or part of a process that would not add any additional information, but a Government consultation is there specifically to seek out and find more information. We then publish the final rationale for the designation. I hope that is helpful in setting out a little of the process involved.

The question about stating the length of the consultation is one that would be appropriate to the project itself. Let us not forget that we are trying to design a process here that would take into account a number of different possible future nuclear power stations. It would be difficult for us today to be prescriptive about the length of time that a consultation should take. We have set out those who we think must be consulted, and we have also left it open for the Secretary of State to consult other interested parties, which is quite reasonable considering that this legislation is supposed to encompass various forms of future nuclear power plants. We would be in danger of becoming too prescriptive about things such as the length of the consultation and the earlier amendment about stating reasons for particular people to be consulted.

Dr Whitehead: I do not want to be accused of trying to be too helpful to the Minister but, as I understand it, this part is about the designation of an existing nuclear company for the possibility of receiving RAB payments for a project it has not yet undertaken. That is it. It seems to me that what we are concentrating on in this part of the Bill—although not later on in the Bill—is just the designation process. I hope the Minister will agree that that is not the project or the RAB process itself, on which we would expect considerable transparency as it goes through, but not necessarily at this particular stage.

Greg Hands: The hon. Gentleman makes a fair point, and he is right that that is the purpose of this clause. None the less, the purpose of the clause is also to allow designation for a potential variety of timeframes within those projects, so it is still important not to be over-prescriptive, for example with the suggestion that we lay out today what the length of time for a consultation should be.

In terms of the costs, the whole purpose of the Bill is to reduce costs. The hon. Member for Kilmarnock and Loudoun is probing on the costs and what they actually mean, but the point is that this is a reduction in the costs that would otherwise be the case under a contract for difference model. That is ultimately getting to the heart of the Bill. I appreciate that he is against nuclear power, but he would surely have to recognise that the Bill is about reducing the costs of nuclear power. That is the purpose of the Bill. He says it is going to be very expensive—we acknowledge that it can be very expensive, and the purpose of the Bill is to make it less expensive.

3 pm

Some reasonable questions were asked about the role of the Scottish Government or other devolved authorities. The Bill does not change in any way the powers of the devolved Administrations in this space. Electricity generation is a reserved matter, so it will be for the Secretary of State to specify a RAB licence for future projects. Officials have also worked closely with their counterparts in the Welsh and Scottish Governments as RAB policy has been developed and the terms of the legislation have been confirmed. We plan to continue consulting with and, where appropriate, involving the devolved Administrations in project discussions, particularly in considerations of regional benefits.

Scotland benefits from a lot of this country's nuclear infrastructure. I am always a bit puzzled about why the SNP does not seem particularly interested in the jobs in Scotland that are involved in this country's critical nuclear infrastructure.

Mark Jenkinson (Workington) (Con): Is it not the case that the rest of the UK can learn from Scotland's lead on net zero when we see the low-carbon content of their grid, which is thanks to nuclear technology?

Greg Hands: My hon. Friend makes a very strong point—one made by quite a few people who were in Glasgow just two weeks ago. Ironically, in Scotland, making that argument strongly were not just the UK Government, but countries from all over the world. They were making the argument for nuclear power being part of our low-carbon future.

The powers of the Scottish Government are unchanged. The Bill makes provisions for the Secretary of State to consult named persons and organisations prior to the specification of any project under a nuclear RAB, and to consult those persons or organisations before he or she amends a projects licence to insert RAB conditions. Ministers in devolved Administrations will be captured—in scope, I should say; not physically—by this consultation.

Alan Brown: The Minister has already said that energy generation is a reserved power. Is he confirming that if the devolved Administrations say no in a consultation, that could be overruled by Westminster, with the imposition of a nuclear power plant?

Greg Hands: The hon. Gentleman is inviting me to go down a hypothetical road. The devolved Administrations have powers in other areas, and if the devolved Administration was strongly minded about having a nuclear power plant in that particular part of the UK, it is difficult to envisage circumstances in which the UK Government would proceed to do that. I hope that gives him enough reassurance.

I will deal with the point made by the hon. Member for Aberdeen North. On the question of a project near a border, it is reasonable then that the UK Government would consider the appropriateness of consulting with the devolved Administration. I return to my earlier point about specifying those who must be consulted and those who the Secretary of State would think it reasonable to consult. That would be within the scope of who the Secretary of State would think it reasonable to consult.

Kirsty Blackman: I appreciate that really helpful clarification.

A couple of points about the lack of transparency in the clause have not been covered. Subsection (2)(a) states that the Secretary of State has to "prepare draft reasons".

[Kirsty Blackman]

Subsection (5)(b) states the Secretary of State must provide the reasons "amended as appropriate". We have not heard what those reasons look like. Do they say something along the lines of, "The Secretary of State gives designated status because he feels like it"? I presume not, but there is no information about what those reasons would include. Could we have something in writing about what could be in those reasons? There is no framework here at all—the Bill seems to be quite lacking.

Greg Hands: I thank the hon. Lady for that intervention. The point strikes at the heart of what a Government Minister is doing. I think she is asking what happens if a Government Minister behaves entirely unreasonably. The way our constitutional settlement works is that if a Minister is behaving entirely unreasonably, he or she is answerable to Parliament. If Parliament believed the Secretary of State to be unreasonable or acting in a way contrary to the intention of the Act, people would find ways of getting the Secretary of State to explain. I think the hon. Lady was trying to suggest that the Secretary of State might arbitrarily decide to go through with something—

Kirsty Blackman *rose—*

Greg Hands: I am not going to give way again, because I have set out clearly that the Secretary of State is ultimately accountable to Parliament, and Parliament would find a way of examining the reasons that he or she laid out under this clause.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clause 4

Expiry of designation

Dr Whitehead: I beg to move amendment 5, in clause 4, page 3, line 24, leave out "5" and insert "4".

This amendment shortens the maximum time allowed by the Secretary of State for the designation period of a nuclear company.

The Chair: With this it will be convenient to discuss amendment 6, in clause 4, page 3, line 33, leave out "5" and insert "4".

This amendment shortens the maximum time allowed by the Secretary of State for the designation period of a nuclear company.

Dr Whitehead: The amendments are grouped because one follows directly from the other—amendment 6 is consequential on amendment 5. The previous debate about the designation process was helpful for discussion of this clause, because clause 4 looks at how long a designation may last once the process has started. That is important because the process can cease to have effect either on the expiry of the designation—that is, a company has been designated for moving along the path to eligibility for a RAB and various negotiations will take place as the company develops its plant—*[Interruption.]*

Greg Hands: The House has adjourned.

Dr Whitehead: Hon. Members have such Pavlovian responses these days, automatically running out of the door whatever the circumstances.

The expiry date of a designation could well arrive because the company has received a designation, but has done nothing about it, or because the Government have got a designation through, but are a bit lax in pursuing the subsequent process. Alternatively, as the clause suggests, it could be because a project is under way, the revenue collection contract starts biting, investment is secured and the project goes ahead.

However, I am a little concerned that the expiry date is set at a period of five years, beginning on the date of the designation notice in question. As such, both the nuclear company and the Government have five years to get their act together on the RAB process, although that could lead to a going slow or delays. We already know that nuclear projects have a habit of running over time, sometimes due to construction issues and so on, but we do not want projects to be further delayed because people have not got themselves organised for a proper RAB process or because the Government cannot be bothered to get things going at a certain time and believe that they have five years to sort that out.

We have made the modest suggestion that that period should be four years; that might concentrate minds a little on moving from the process of hopefully being designated to the process of having a revenue collection contract and getting under way properly. There would not be that time to mess about between the two ends of the process, as might be the case under the five-year designation period.

I agree that we could pick any one of a number of different dates; the four-year period is just to suggest that we should concentrate minds a little. The amendment does not lay down the law: if the Government think it could be reconstructed in a different but more concentrated way, we would be happy with that. The amendment just suggests an indicative new date so that the point is borne in mind. I hope the Government will be able to accept it on that basis.

Greg Hands: Amendments 5 and 6 would seek to reduce the length of time a designation remains valid from five to four years and they would reduce the period for which the Secretary of State may extend the designation notice for a designated nuclear company to four years.

First, I thank the Opposition for their consideration of this matter. The hon. Member for Southampton, Test spoke to his amendment in a probing way—trying to get to the bottom of why the period should be five years rather than some other period. I am glad that the Opposition recognise the importance of the designation notice period and the fact that it should strike the right balance between providing enough time for the Government and the company to undertake all the processes necessary to inform a decision on licence modifications without leaving a designation in place for an unreasonable length of time. That is, as it were, the exam question here.

I believe that we have achieved that balance in the Bill. Currently, if negotiations on a project are successful and a relevant licensee nuclear company becomes party to a revenue collection contract, the power of the Secretary of State to modify its licence ceases, of course, outside some limited circumstances. That is vital to give investors

confidence that the Secretary of State does not have an open-ended power to further amend the generation licence.

On the other hand, if negotiations are not successful after a project has been designated—the point here is to give enough time for those negotiations to be successful—it is necessary for the Secretary of State's modification powers to lapse rather than continue indefinitely, so a sunset clause to the designation is also needed. That sits alongside the provisions in the Bill that revoke designation if the designation's criteria or conditions are no longer met.

However, a decision to take a financial close on a nuclear power station may not happen overnight; robust processes must be followed, extensive due diligence must be carried out and there must be rigorous negotiations to ensure value for money for both the consumer and taxpayer. That is the case with many large infrastructure projects.

Take the negotiations at Hinkley Point C as an example: discussions and eventual negotiations on the project took a number of years to complete. I believe therefore that a five-year window is a reasonable period to expect negotiations to have run their course, recognising that a project for RAB must be suitably advanced to be designated in the first place—that goes back to the earlier debates. That window provides time for negotiations to achieve a successful outcome without providing the Secretary of State with licence modification powers for an inappropriate period. The ability to extend the designation presents a backstop provision that allows the designation to be continued when the designation criteria continue to be met and negotiations are ongoing—in other words, it builds a certain amount of flexibility with a positive decision to extend negotiations. It is therefore appropriate that the extension period should mirror the initial designation period.

I do not consider that the amendments would provide any enhancement to that rationale. I did not hear any specific argument for four years rather than five years, so I am minded to continue with five years. I consider the provisions within this clause, which will permit the Secretary of State to revoke a designation notice at any point if he considers that the criteria are no longer met, mitigates the risk that negotiations—or, indeed, the modification power—will continue for longer than they should. I therefore invite the hon. Gentleman to withdraw his amendment.

3.15 pm

Dr Whitehead: As the Minister has said, the amendment was essentially a probing amendment to seek a little more clarification on why five years is considered to be the appropriate time. I am not sure that the Secretary of State has fully answered the question about the extent to which that might allow people not to get on with things as quickly as they might otherwise do, but I appreciate that in a complicated project such as those we are considering, there are processes that take quite a lot of time; it may well be that getting on for five years is the time necessary for such projects to be completed.

The overall point is that we want to make sure that, once designation has been undertaken, we move to the next stage as quickly as possible. I am sure that the Secretary of State would concur with that particular aim. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Greg Hands: Clause 4 sets out the circumstances in which the designation of a nuclear company would expire. As set out in subsections (1) and (2) of the clause, the designation of a nuclear company will be limited to a period of five years from the date of the project designation. If a designation expires, the Secretary of State must publish the details of that fact under the provisions in subsection (5). However, the Secretary of State will have the power under subsection (3) to extend the designation period before the five-year period lapses.

Subsection (4) of the clause requires that prior to granting an extension for a maximum of five years, the Secretary of State would need to consult the company, the authority, the ONR, the relevant environment agency, and the devolved Governments if relevant. Before exercising that power, the Secretary of State would also need to continue to be satisfied that the criteria for designation are met. This would allow for any circumstances in which the negotiations with the designated company and engagement with the financial markets last beyond the five-year designation period, but the Secretary of State believes that the project both represents value for money and is sufficiently advanced to warrant a RAB.

The designation will also expire if the company enters into a contract with a revenue collection counterparty. That is to provide confidence to investors that once the RAB licence conditions have been inserted into the company's electricity generation licence, the Secretary of State will no longer be able to modify that licence except in the limited circumstances set out in clauses 7 and 35 of the Bill. This is a proportionate approach that balances the need for investor certainty with the ability to flexibly apply the RAB model to individual projects. On that basis, I commend the clause to the Committee.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

Revocation or lapse of designation

Dr Whitehead: I rise to speak to amendment 7, in clause 5, page 4, line 16, leave out "either" and insert "any".

This amendment is consequential on amendments 2 and 3.

This amendment was tabled to deal with the possible eventuality that we would have three designation criteria in clause 2(3), rather than two, as is the case at the moment. We moved an amendment to try to place three criteria into that clause, which the Committee did not accept. The statement, therefore, that either of those two criteria are relevant stands as far as the Bill is concerned, and the word "either" should therefore not be replaced by "any". On that basis, amendment 7 logically falls, so I have no wish to move the amendment.

Question proposed, That the clause stand part of the Bill.

Greg Hands: Clause 5 provides the Secretary of State with the power to revoke the designation of a nuclear company and sets out the applicable circumstances and procedure for doing so, as well as the circumstances and procedure whereby a project designation could lapse. The revocation power is tightly constrained by subsection (1). It applies only where a nuclear company ceases to hold a generation licence in respect of the nuclear project for which it was designated or it no longer meets the designation criteria. It is important that only the right projects are able to benefit from a RAB where they are sufficiently advanced and likely to provide value for money.

As set out in subsection (2), revocation of a designation would follow a similar process to project designation. The Secretary of State must prepare draft reasons, consult the named persons and publish a revocation notice, where relevant; they can attach additional conditions to a designation notice, as set out in subsection (3). If a company fails to comply with the conditions set out in the designation notice, the Secretary of State will notify the company that it has failed to comply, which will result in the designation lapsing. Such a notice must be published by the Secretary of State under subsection (5).

Such a model is a common feature of similar RAB models. The procedures envisaged allow time for consideration and consultation before any decision to revoke is taken. Given that the ability to continue to meet any of the conditions attached to designation is within the control of the company, there is no consultation requirement for the Secretary of State before a designation lapses.

Taken together, these routes to ending a designation provide an important layer of protection for consumers before a designated company enters into a RAB. In essence, they allow for a designation to end in any circumstance where it is no longer appropriate for a company to benefit from a RAB before project funding begins.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6

LICENCE MODIFICATIONS: DESIGNATED NUCLEAR COMPANIES

Dr Whitehead: I beg to move amendment 8, in clause 6, page 5, line 3, at end insert—

"(2A) Prior to exercising the power under subsection (1), the Secretary of State must publish a statement setting out how the exercising of the power will facilitate investment in the design, construction and commissioning of nuclear energy generation projects."

This amendment requires the Secretary of State to justify the exercise of a power to modify the electricity generation licence of a nuclear company.

The clause concerns modifications to the licences of companies that have entered into a designation with regard to the RAB process. It sets out a number of powers enabling the Secretary of State to make modifications to licences in order to square the designation process with the licence process. It occupies a lot of other areas, but would be particularly relevant to the licence as it applies to, say, the Sizewell C project.

Subsection (2) states that the Secretary of State is able to exercise the power under subsection (1)—to modify licences—

"only for the purpose of facilitating investment in the design, construction, commissioning and operation of nuclear energy generation projects",

which restricts the powers of the Secretary of State to modify the licences, concentrating it in the field of the design, construction and operation of the nuclear project.

Hon. Members will notice that that restriction stops there—that is, the Secretary of State may exercise that power for that purpose, but no one else needs to know about it. The Secretary of State may consider doing that, or restricting himself or herself to that particular designation, and may consider that he or she has done that, but it is a completely opaque process.

This amendment seeks to ensure that the Secretary of State publishes a statement setting out how his decision does indeed facilitate investment in the design, construction, commissioning and operation of nuclear energy generation projects, so that when he is considering exercising that power, it is a publicly exercised power, and information on what he has done is in the public domain.

The publication of the statement does not restrict what the Secretary of State can do; it sheds a light on what they can do, and ensures that they are carrying out that particular power correctly, as laid out in the legislation. We think that would be a good, safe addition to the Bill. It does not fundamentally alter its direction, but sheds a little more light on the process as the directions of the Bill are undertaken.

Greg Hands: As the hon. Gentleman says, this amendment addresses the process for modifying a designated nuclear company's licence, particularly which documents should be published before the power is exercised. We recognise that designating a nuclear company and subsequently modifying its licence is a significant decision. That is why the legislation lays out a clear process, which provides transparency and builds confidence in the decisions that the Secretary of State will make when exercising these powers. The process in the Bill is strongly based on existing licence modification powers; it is well precedented.

The amendment obliges the Secretary of State to publish a document setting out how the licence modification would facilitate investment in nuclear projects before modifications are made. I do not believe that is necessary. The Government have already set out a clear process and strong transparency provisions in the legislation. Currently, the Secretary of State is required to consult named persons prior to making any licence modifications, and must then publish the details of any modifications as soon as reasonably practicable after they are made, with material excluded only when necessary—for example, for purposes of commercial confidentiality or national security.

Alan Brown: Could the Minister give an example of an existing licence that the Government have granted that could likely need to be modified to facilitate the investment that the Government are looking for? Could he explain what that process looks like?

Greg Hands: The process is as described. It is based on a very good precedent on these sorts of licence modifications. This would not be the first Bill to come along to look at how to modify a licence, and we have based that entirely on existing precedents. There is nothing unusual in this process or this structure.

The approach of consultation followed by publication is well precedented, as I said, in other licence modification powers. We think that the amendment proposes an

unnecessary additional process. Moreover, the consultation provisions will allow expert voices to input on whether the licence modifications are effective in facilitating investment, which, of course, is exactly the purpose of the clause. I therefore hope that the hon. Gentleman will withdraw the amendment.

Dr Whitehead: We do not intend to press the amendment to a vote, but I will say that we think it is a good idea, which adds to the Bill's transparency. The Minister has given examples where certain elements of that transparency would be facilitated by other components of the Bill, but I would note that most of those are post hoc rather than before the process. Nevertheless, I take some assurances from what the Minister has said about the proper transparency of the process, so we will not pursue that this afternoon. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

3.30 pm

Dr Whitehead: I beg to move amendment 9, in clause 6, page 5, line 13, at end insert—

"(ba) the interests of existing and future consumers of electricity in relation to their prospects of recouping their contribution at the conclusion of the construction phase of the project;".

This amendment requires the Secretary of State to have regard to the interests of electricity consumers in recovering the value of their contribution to the construction of a nuclear power plant.

We have now reached the point where we have the first consideration of the consumer in the Bill, in clause 6(4)(b), dealing with the licence modification arrangements. Hon. Members will note in subsection (4) the things that the Secretary of State must have regard to when exercising the power under subsection (1), subject to what we have just discussed about subsection (2) in terms of the design, construction, commissioning and operation of nuclear energy generation projects.

Subsection (4)(b) says that the Secretary of State must have regard to

"the interests of existing and future consumers of electricity, including their interests in relation to the cost and security of supply of electricity".

I understand that to mean that the Secretary of State, in modifying licences, particularly in respect of a RAB agreement, must look at the interests of consumers with respect to the cost of electricity and the extent to which it may be produced at a better price as production develops in the years following the adoption of a RAB, and the extent to which security of supply to customers can be maintained.

What is lacking in that list of things that the Secretary of State must have regard to—along with many other things—as far as the consumer is concerned is a recognition that the consumer has an active interest as well as a passive interest in this process. If we are setting out to produce a RAB arrangement that effectively requires a levy on customers at all stages of the process—during development, construction and production—then the consumer surely has rather more of an interest in that process than just the passive interest in price and security that is suggested in subsection (4)(b).

For example, the consumer has a considerable interest in making sure that the cost to them is reasonable at all stages of the process, and that it does not simply set out to milk the consumer for the purpose of sorting out the project regardless of its vicissitudes. The consumer has a particular interest not only in the way that the RAB contract talks about the price of electricity, but in how it addresses the extent to which the consumer's investment may be recouped as the RAB process comes to its conclusion and goes down its path.

Of course, in that context, the RAB arrangements that we are discussing have, during their latter stages, a two-way process. If the production of electricity goes above the ceiling of the allowable costs limit, then it is expected that the company producing the electricity, because the model is regulated, will restore money to the consumer in one way or another. If its production is under that allowable costs ceiling, however, it will take money from the consumer to allow that process to continue smoothly. Indeed, in the RAB consultation, we had a rather optimistic, smooth little curve down as the process comes to its end. I do not think that will quite be the reality as the RAB process goes on, but it is important.

Alan Brown: I share the hon. Gentleman's concerns about protecting consumers from costs and so on. That is actually why we are against large-scale new nuclear. Can he explain a wee bit more about recouping costs? Recouping costs sounds like getting money back in terms of the asset, which does not make sense. The amendment also mentions recouping contributions

"at the conclusion of the construction phase of the project".

That is effectively rent on a 60-year contract for the RAB, so I am not sure why it would be at the conclusion of the construction stage.

Dr Whitehead: It is at the conclusion of the construction stage because the construction stage gives way to a production stage. That is the point at which electricity is produced, when the customer—I am assuming we can describe the consumer and customer as an entity—or those acting on behalf of the customer can start to think about the extent to which some of that money may come back as a result of the way that production is carried out within the ceiling set for overall RAB programme costs.

There could be circumstances under which, as the RAB process comes to an end, the customer recoups—in lower bills, dividends and so on—a lot of the money that was put in. There will always be excessive production over the allowed costs level, so money will come back to the customer. We will see later in the Bill the methods by which that money might be restored to the customer. Yes, there is a real interest, post the construction phase, in recouping those costs.

A second issue for the consumer is the eventual outcome of the ownership of the plant at the end of the RAB period, as it goes into production. As it is a regulated asset base, by the end of the RAB period, the company that has undertaken the construction and run the production of the plant will have received all the money it should have received through the regulated asset base arrangement, and will have worked successfully as a result of the support that the RAB process provides.

Depending on how many years are set out for the RAB process to take place, if it reaches its end within the working life of the nuclear plant, the question then arises of who owns the nuclear plant at the end of that period.

[Dr Whitehead]

Does the consumer own it at the end of that period? If they do, that is a little bit like a mobile phone contract, whereby the consumer would expect the charges to reduce substantially after paying off the cost of the phone in their contract. Clearly, it is in the interests of customers to have an active involvement not just in spending their money wisely, but in recouping or changing it into a different form as the RAB process sets its course. Indeed, under those circumstances, the Secretary of State might need to consider the length of the RAB contract, and how far it goes into the operating life of the nuclear power station, to carry out the terms of the contract and to consider what arrangements might be made for life at the end of that contract.

I suggest that those are all things that the Secretary of State ought to have regard to over and above the passive involvement of consumers that is set out in subsection (4). That is why we tabled the amendment, which states that the Bill should take account of

"the interests of existing and future consumers of electricity in relation to their prospects of recouping their contribution at the conclusion of the construction phase of the project".

That is an active consideration in the management of customers' contracts, not just a passive one where the customer stands by and waits for the money to be deducted from their account to pay for these projects forever. The Secretary of State should have an active view on that in terms of how to get the best value for the customer from the project overall, over and above the best value for the project itself.

Greg Hands: Amendment 9 addresses how the interests of consumers, which are vital in this process, will be taken into account and what the consequences of that would be. In the Bill as currently drafted, the Secretary of State must have regard to a number of matters when modifying a designated company's licence. That includes the UK's net zero ambitions and the interests of existing and future consumers in relation to the future cost and security of electricity supply.

The amendment requires the Secretary of State also to have regard to the prospect of consumers recouping what I think the shadow Minister described as their "investment" at the end of the construction phase. I appreciate hon. Members' enthusiasm for ensuring that consumers will benefit from any RAB project, and, in that sense, I welcomed their support on Second Reading. However, the amendment is not compatible with how the RAB model works.

The hon. Member for Kilmarnock and Loudoun got to the heart of this: the amendment would make RAB effectively inoperable. It treats consumers as investors, but they are not investors. Consumers will benefit from a new nuclear power station. He and I might disagree on whether that should have happened in the first place, but none the less, the benefit to consumers is in electricity rather than in a return on any investment.

Fundamentally, the amendment misunderstands how the RAB model will work. The RAB model will mean that consumers contribute to meeting project costs from the start of construction and reducing the cost of capital, which is the main driver of project costs. That is why we are seeking consumers' contribution. What they get in return is a nuclear power station that produces low-cost, low-carbon electricity.

Dr Whitehead: Let me say two things. First, if someone contributes in a penny fund to a co-operative society account of some description, that does not mean that they are not an investor; it just means that they are investing in a certain way and at a certain rate. The fact that the RAB arrangements will be passed on to customers' bills and that there will be a known and determined amount of levy on those bills, which can be quantified, means that the customer is, in effect, adding an investment into the process on top of their bills. That is what I am trying to say, and I am sure that the Minister would agree that that is a form of investment in the process, even though the consumer is not a conscious investor in the way that a corporation might be. This is one of the problems of how we best protect the consumer interest in this process. Nevertheless, I suggest that that is a consumer investment in the overall process.

Secondly, I am sure that the Minister would agree that the RAB process continues after construction for a considerable time in the production period, as the RAB consultation set out. Therefore, that part of the process needs to be considered equally as an investment in the overall outcome of the project, as it is in the construction period. If he thinks that it is something different, he ought to explain why.

The Chair: Order. Interventions are getting very long. There will be an opportunity to respond at the end of this debate, Dr Whitehead.

Greg Hands: I thank the hon. Gentleman for that lengthy intervention. I think that a bill payer's contribution is not an investment. The objective is to lower the cost overall to the consumer. That is why we have the figure of £30 billion or more, or £10 a year per bill payer. The consumer's objective is not to become an investor and get a return on that investment, but to have a future source and availability of low-cost, low-carbon electricity—that is, through a nuclear power station.

3.45 pm

The amendment confuses matters and, as the hon. Member for Kilmarnock and Loudoun pointed out, would effectively render the model inoperable. Rather than recouping funding at the end of the construction, as would be the case in an investment, consumers instead get the benefit of a reliable low-carbon, lower-cost energy system, supported by the new nuclear power plant. That is the role of the consumer and it is why the consumer is being asked to contribute during the construction phase.

The legislation already captures the need to ensure that consumers will benefit from an operational plant in return for their funding. As we have already discussed on amendment 3, the existing checks, consultation requirements and non-legislative approvals provide sufficient assurance that a project will successfully complete construction.

Kirsty Blackman: It is not low-cost energy. It may be slightly lower than more expensive nuclear, but it is still way more expensive than offshore wind, onshore wind, solar and such. Characterising it as low cost is simply wrong.

Greg Hands: That is a wider debate around nuclear, which I would contest. Obviously, it is an active debate: first, how expensive is nuclear, and secondly, how expensive is it relative to other forms of power generation? Those are active parts of political debate.

Kirsty Blackman *rose—*

Greg Hands: Can I just deal with the hon. Lady's first intervention? We are seeking to give effect to Government policy, which is to support the roll-out of more nuclear power. How do we do that in a financially reasonable and more cost-effective way for both consumers and the taxpayer? That is the purpose of the Bill within the confines of having already agreed as a Government that nuclear power is going to be the way forward in providing a large part of Britain's electricity.

Kirsty Blackman: I was not aware that there was a political debate about the cost. The Department for Business, Energy and Industrial Strategy's figures say that offshore wind costs £47 per megawatt-hour; nuclear is £93, onshore is £45 and large-scale solar is £39. Those are BEIS figures, so I did not think there was any debate. I am concerned that the Minister is inadvertently misleading us by using the term "low-cost". He can use "low-carbon", but to say "low-cost" is simply not true, even by BEIS figures.

Greg Hands: Again, I thank the hon. Member for that intervention. The cost of different forms of power generation is a very interesting part of the energy debate. Obviously those costs move around and will be based on any number of factors, including global market prices and the cost of extracting and producing particular forms of energy. Nuclear's advantage is its ability to provide a steady, constant baseload, which is not always the case with some of the other technologies the hon. Lady is comparing it with.

I hope I am not digressing too far, but when it comes to offshore wind, the UK has had enormous success. We have the world's largest capacity. None the less, when the wind is not blowing and the sun is not shining, we have to have something else to provide that baseload. That is the purpose of nuclear power. The Bill is about making it more cost-effective and reasonable for consumers. That is the Government's position.

I hope I have convinced hon. Members that this amendment would not achieve their goals of helping consumers. The concept of consumers investing in a plant and then recouping their money somehow is incompatible with the RAB model. There are mechanisms in place to give confidence that any RAB project will successfully lead to the means of delivering large amounts of stable, low-carbon energy to consumers. I hope the hon. Member will withdraw the amendment.

Dr Whitehead: This really worries me. What does the Minister think consumers are doing in contributing to a RAB process? If the Minister does not think that that is in any way a form of investment in the plant and that consumers are just completely passive recipients—that they are good for whatever money is required to get the system through and should have no interest in the proceedings, other than being a milch cow for the process—I am afraid that we differ.

Kirsty Blackman: On that, consumers are investing in the significant profits for private companies that are in many cases not based in the UK. That seems to be the essence of the hon. Gentleman's concerns and the reason he moved the amendment. Is that correct?

Dr Whitehead: Yes, indeed. This is perhaps a separate debate, but we have a position not just on this particular instance of nuclear power, but on similar arrangements that relate to the RIIO process for energy distribution and network companies, whereby they are enabled to charge an additional amount on bills in order to secure assets that they own and that consumers or the public do not. The consumers, however, are expected to pay for the privilege of having that piece of technology at their disposal subsequently, but the question of ownership never comes into it, because they pay collectively for someone else to have an asset to call its own. That is exactly the situation with the nuclear plant.

We therefore need to take the consumer rather more seriously than just being a passive contributor in the way often set out in such processes—"Oh well, the customer will pay an additional levy in the bill. As long as it doesn't look too serious at any particular time, that's okay." Not only is that not okay, in particular for levies with no consequences if applied to customers, but it is not okay to have a cumulative set of levies that put a lot of money on electricity and gas bills over a period for particular purposes that the consumer has no hand in at all.

I agree that the concept of the consumer being a part investor in the process might sound a little odd to those who have a traditional view of an investor and how an investor works, it is nevertheless a real thing: the consumer is in effect investing in the success of the plant. The Secretary of State—the Minister; I have promoted him already—has set out how he sees the customer being involved in the process, but that completely ignores the proper interest and protection of the consumer and bill payer as far as the overall process is concerned.

The amendment would not make the RAB process impossible; it merely states that as part of that process—we will come to the debate about where allowable costs have been exceeded—yes, the customer invests in it, but the customer also has reasonable expectations of some quid pro quo for that investment. That ought to be looked after. The quid pro quo in this instance, as I set out—I am sure the Minister agrees that this takes place in the RAB process—is that in the production process, if there is an excess over the allowable costs of production, the fact that it is a regulated asset means that that money goes back to someone. In this instance, it should be the customer.

That is what I mean by the customers' interests being protected in recouping their investment. The Minister surely cannot deny that that is part of, not instead of, the RAB process in the production period. That is actually set out in the notes that accompany the Bill. I am therefore a bit mystified as to how the Minister takes the position that he does, given what is in his own Bill and in the arrangements for RAB that he himself is putting forward. I see no reason why he should not accept the amendment if he has the customers' interests at heart, because it does not detract from RAB; it adds to it by recognising who is paying the money, what their interests are and how they should be protected.

I will not press the amendment to a vote, but I want to record my disappointment in the Minister's apparent lack of either understanding or empathy for the customer's position. We are discussing a Bill in which the customer

[Dr Whitehead]

is central, because they are bankrolling a substantial part of the project as it goes forward. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Greg Hands: I will try to speed up a little. As we know, the clause allows the Secretary of State to make the necessary licence modifications to apply a RAB model to a designated nuclear company. Subsection (2) clarifies that the effect of a licence modification is that the company would benefit from being able to receive an allowed revenue to construct, build, commission and operate a new nuclear power plant. Subsection (3) requires that the power be exercised only in relation to a nuclear company that is designated in accordance with the provisions of the Bill.

Licence modifications will not take effect unless the nuclear company whose licence has been modified subsequently enters into a revenue collection contract with a revenue collection counterparty, as set out in subsection (9). The modifications will be subject to negotiation between the Government and the nuclear company. It is therefore not possible to describe the exact modifications that would be required; however, subsection (5) highlights possible examples, such as the revenue that a company is allowed to receive, how that revenue is to be calculated, and the kinds of activities that may be undertaken by the company.

When making any modifications to a licence, subsection (4) requires the Secretary of State to take into account both our commitment to decarbonising the power sector and the interests of existing and future consumers with respect to the cost and supply of electricity. Alongside that, and to ensure that any RAB project is financeable, the Secretary of State, when making modifications under the clause, must have regard to the costs incurred in delivering the project and the need for the company to finance that activity. Together, those obligations will ensure that the modification powers are used so that the project contributes to a transition to a low-carbon, low-cost energy system.

As set out in subsection (3), the power to make modifications to a licence will last while the designation for a nuclear company is in effect. That is important to allow the Secretary of State to make modifications to the licence to take into account developments in negotiations and engagements with the financial market. When making any modifications in that period, the Secretary of State will need to continue to take account of the consultation that he undertook with all bodies named in clause 8. In addition to the modification of the designated nuclear company's licence, subsections (7) and (8) allow him in very limited circumstances to modify the standard conditions of generation licences if necessary. The Secretary of State can make those modifications only if he considers it appropriate for consequential, supplementary or incidental purposes.

Alan Brown: I will be brief, because I know that time is getting on, and far be it from me to speak to a clause that both Front Benchers have agreed adds transparency to the Bill—albeit that, being facetious, I would say that doing so is a low benchmark. Subsection (2) clearly states that the licence can be modified only to facilitate

"investment in the design, construction, commissioning and operation of nuclear energy generation projects."

Given that clause 1 states that a company can be designated only if it already has a generation licence, I would like the Minister to provide more clarity on what could be in a generation licence that prohibits the investment that he says that we are seeking to unlock by modifying it. That is the part that I am not quite clear on.

Clause 6(5) says that it is all about being able to change the revenue mechanism to allow a company to create more money. The Minister rightly said that subsection (4) lists some of the things that need to be considered as part of a licence modification. I ask him to consider that in the light of what I said earlier about clauses 2 and 3, and about there not being enough information in the Bill about what the Minister or Secretary of State should consider. We could also look at that in the round on Report, but we would like a wee bit more information about why the licence would need to be modified to release this so-called investment.

4 pm

Greg Hands: I thank the hon. Member for his contribution. The Government are satisfied that the amount of information included in the Bill is sufficient. Far be it from me to suggest that Members table amendments, but perhaps he might seek to do so if he wants to see more transparency and more information. I realise I was not quite right earlier in saying that the SNP had not tabled any amendments; I know that it has tabled some new clauses. If he wants additional publications, he might table some amendments on Report to be a little more precise about what additional information he thinks the Secretary of State should publish.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

Licence modifications: relevant licensee nuclear companies

Dr Whitehead: I beg to move amendment 11, in clause 7, page 7, line 8, at end insert—

"(3A) When exercising the power in subsection (1), the Secretary of State must not cause the excess of expenditure being incurred over the allowable revenue cap to lead to further charges upon revenue collection contracts."

This amendment prevents the Secretary of State from allowing the levy of further consumer charges should an increase in allowable revenue be agreed following increases in costs or timescale of a nuclear project.

The Chair: With this it will be convenient to discuss amendment 12, in clause 7, page 7, line 8, at end insert—

"(3A) When exercising the power in subsection (1), the Secretary of State must publish a statement setting out how an adjustment in the company's allowed revenue is to be made without relying on revenue collection contracts."

This amendment requires the Secretary of State to set out how an adjustment to allowed revenue, following an increase in costs or time, is to be provided for by means other than additional customer levies.

Dr Whitehead: With these amendments, we get to the heart of the consumer interest in the Bill. They are closely related, so it is appropriate that they are grouped and spoken to together.

As I think hon. Members know, when the RAB process gets under way, one of the first things that will happen is that Ofgem will be required to draw up a programme of allowable revenue. That is the sum total of the amount that is considered to be within the RAB process. Much of the rest of the Bill is about how that allowable revenue is collected from customers, placed with the counterparty and allocated out to the nuclear company that undertakes the construction and subsequent production of a nuclear plant, and about the safeguards and concerns surrounding that process. The question of allowable revenue is crucial to the rest of the Bill.

Allowable revenue is made up of a number of building blocks. The return on capital must be assessed, as must depreciation, operating costs, the project's taxation, grid costs, the funded decommissioning programme, incentives and other adjustments. Those all go into the pot of the allowable costs regime, which sets a ceiling for the amount of money that can be taken from the consumer, albeit that that is a contribution towards the process made by lots of people in small amounts on their bills over a period of time. It sets out the quantum of those contributions, and many adjustments can be made to how that works, in relation to the timescale of the process, the part of the allowable costs element that is placed into construction and the part that is placed into production. That is set out later in the Bill as part of the process of allocation from the counterparty body to the body that carries out nuclear construction and production.

As was mentioned earlier, it is not always the case that nuclear power plants are constructed exactly to cost and exactly to time. Indeed, if we look at the construction of nuclear power plants across the world, we find that all but one has run over time or over cost or both—in some instances by very large amounts. The allowable costs ceiling is therefore important for us to get a clear scope of what the customer will have to bear in this process. However, there is also a process in the Bill that allows that allowable costs ceiling to be raised, on the Secretary of State's consideration, if the circumstances change. If the costs rise or the timescale slips, the Secretary of State can allow the allowable costs ceiling to be raised.

What that means in principle for the consumer is potential catastrophe, because the consumer thought they were in for a particular allowable costs ceiling that had been determined. We have heard already about the rather heroically optimistic cost assessments provided for in the Bill, and on that sort of allowable costs arrangement consumers would have about £1 put on their bills in the design phase, with a lot more—perhaps £10—on their bills in the construction phase. The amount would then taper down as production gets under way, with the possible payback of some money in the process. The overruns on construction costs or time costs could double or treble that amount, particularly during the construction period, in a way that the consumer would not have anticipated.

In the amendments, we suggest that the consumer should be in for the initial allowable costs ceiling estimate—and that is it. In circumstances where the Secretary of State is contemplating what should happen with the allowable costs ceiling, he should not cause any excessive expenditure simply to be plonked on to customers' bills. At that point, if the costs or the timescale have changed, there are a number of options open to him as to how to deal with the new cost ceiling; that need not necessarily be done by simply raising the allowable costs ceiling. For example, it could be by adding a particular taxpayer's investment to the project, or it could be by issuing nuclear bonds, which puts additional money into the company but does not impact on customer bills.

We are seeking to cap the RAB in terms of what the customer expectation of it is. That does not necessarily mean that the function of the RAB is determined by that cap; it just means that the exponential milking of the customer to fund the RAB does not take place and that the Secretary of State has recourse to other means and should publish, as amendment 12 says, what the plans would be in the event of an excess over the ceiling to make the project a success.

That is a very important part of the new deal as far as RAB is concerned. The customer is now being asked to invest, in the first instance, in the hope for a plant, well before the plant has been established; that is new—the CfD process is post the construction of the plant. They are being asked to underpin the expensive costs that are incurred during the construction period. They are also being asked to engage in a two-way process whereby, yes, they get cheaper bills but they are still potentially contributing to a RAB process as the production phase continues. So the very least we should expect on behalf of the customer is that they know what they are letting themselves in for at the time of the outcome of the project.

We are not talking about capping costs necessarily; we are talking about how those additional costs are paid for under the circumstances where they do rise. We obviously hope that, as the project progresses, those costs and timescales do not increase, but if they do we do not see that the customer needs to foot the additional bill; there needs to be other recourse. That is what we have put in these amendments, and should the Secretary of State consider in any way that the customer is an investor in this process, we hope he would consider that a reasonable way of dealing with the investment that the customer is undertaking in the process as a whole.

Greg Hands: I will speak for a little longer than I might ordinarily do, because this is an important question of consumer protection. I will try to deal with all the points raised by the hon. Member for Southampton, Test.

Amendment 11 would limit the ways in which the Secretary of State could exercise the powers under clause 7. As we know, clause 7 allows for a nuclear company's allowed revenue to be increased should its financing cap be exceeded in construction, but only in certain circumstances and where a clear procedure is followed. The amendment seeks to prevent the Secretary of State from creating any additional recourse to consumer funding in the exercising of his or her powers under the clause. Amendment 12 proposes that the Secretary of State should be transparent about the funding of a nuclear RAB project were they prohibited from funding an extension to the allowed revenue through a revenue collection contract.

[Greg Hands]

First, I draw the House's attention to the remoteness of the scenario under which the Secretary of State may choose to exercise the power under clause 7. Under a RAB model, the licence would determine a risk-sharing mechanism, whereby construction cost overruns up to the agreed financing cap are shared between investors and consumers. We expect that any RAB structure will ensure that financial incentives are in place to ensure the company's investors manage project costs and schedules. The financing cap will be based on robust risk analysis, including best-practice, reference-class modelling, and set at a level that is sufficiently remote that there is a very low chance that it would be reached.

However, in the event that the financing cap is reached, investors would not be obliged to provide the capital to complete the project and this risks considerable sunk costs to consumers if the project is discontinued. Given the size and importance of the project, the Government consider it crucial that there is a mechanism in place to allow the additional capital to be raised to ensure completion of the project, and that decisions to extend the project's revenue rest with the Secretary of State.

I would emphasise at this point that any decision taken by the Secretary of State to adjust the allowed revenue is one that is subject to a robust process of scrutiny and transparency. The Secretary of State could exercise the power to extend the allowed revenue only following consultation with the licensee, the ONR and Ofgem, which, I remind the Committee, has as its primary statutory duty the need to protect the interests of existing and future consumers with respect to the cost and security of the supply of electricity.

In exercising the power, the Secretary of State must continue to have regard to those matters detailed in clause 6(4), which includes the interests of existing and future consumers with respect to the cost of supply of electricity. As is consistent with our approach across the Bill, we have sought to ensure a transparency process whereby the Secretary of State is required to publish a statement setting out the procedure to be followed when exercising this power. That is set out in subsection (6).

4.15 pm

I would now like to bring the Committee's attention to the two amendments. Amendment 11 seeks to ensure that in the event that a nuclear RAB project is forecast to reach the financing cap the Secretary of State must not take any action that may lead to additional costs being incurred by consumers beyond those provided for in the revenue collection contract. Amendment 12 seeks to ensure that the Secretary of State must instead publish a statement as to how the increase to the allowed revenue will be funded without consumer contributions.

We consider that both amendments would narrow down the options the Secretary of State has for ensuring that the project completes construction. Going back to earlier comments, the consumer has a strong interest in this project completing construction. These amendments would instead lead to sunk cost risk for consumers. Our focus should instead be on ensuring there is sufficient transparency, scrutiny and protection in place before further consumer contributions are sought in this very unlikely event. As I have already argued, that is exactly what the Bill already does. So I thank the Opposition for their consideration of the matter, but I have made it clear that this is a very remote scenario and a power that we hope the Secretary of State will not have to exercise.

I want to be clear that this is not a cast-iron commitment for consumers to fund a bad project come what may—of course not. There would be clear incentives on the project to manage costs and overruns; ultimately, in an overrun scenario, the Secretary of State can decide to commit public funding to finish the project. That simply provides another route to ensure that a plant built under a RAB benefits consumers with the low-carbon, resilient power it will supply.

I am appreciative of the Opposition's desire to protect consumers from any additional costs should a project breach the financing cap. However, the Government have ensured that the Secretary of state will carry out robust due diligence on the project and will give due consideration to the interests of existing and future consumers, as stipulated in clause 6(4).

I would remind everybody that that provision is further strengthened by the Secretary of State consulting Ofgem. Ofgem has a statutory duty to protect consumers during the consideration of the application from investors before any decision is made. That will ensure that consumer interests are rightly protected as we maximise the likelihood that consumers will reap the benefits of the project they helped to build. That is the consumer protection embedded in this Bill. I therefore hope that hon. Members will respect the process that we have put in place, and I ask them not to press amendments 11 and 12.

Dr Whitehead: That is very disappointing. The Minister has effectively said that the customer has no say in this arrangement. He used the phrase "reduce the options to Ministers"; yes, this would reduce the options available to Ministers—it would make them think about how they should put forward other ways of covering a breach of the allowed expenditure without simply fleecing customers. The Minister may think that one of his options ought to be to fleece customers—that might be the universe he inhabits—but we do not think that should be the case. We think that the customer must have much clearer lines of protection, other than the very woolly things that the Minister has said that might cause the customer to be given some consideration in this process. For those reasons, we would like to divide on amendment 11.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 7.

Division No. 2]

AYES

Blackman, Kirsty	Pennycook, Matthew
Brown, Alan	
Owen, Sarah	Whitehead, Dr Alan

NOES

Baker, Duncan	Hands, rh Greg
Crosbie, Virginia	Jenkinson, Mark
Doyle-Price, Jackie	
Fletcher, Mark	Wallis, Dr Jamie

Question accordingly negatived.

Amendment proposed: 12, in clause 7, page 7, line 8, at end insert—

"(3A) When exercising the power in subsection (1), the Secretary of State must publish a statement setting out how an adjustment in the company's allowed revenue is to be made without relying on revenue collection contracts."—*(Dr Whitehead.)*

This amendment requires the Secretary of State to set out how an adjustment to allowed revenue, following an increase in costs or time, is to be provided for by means other than additional customer levies.

Question put, That the amendment be made.

Question negatived.

Dr Whitehead: I beg to move amendment 10, in clause 7, page 7, line 17, after "operations" insert

"and have generated power for placement onto the National Grid".

This amendment amends the definition of the completion of construction of the nuclear project to include initial generation of power.

The amendment relates to statements made, for the purpose of licence modifications, about the completion of the construction of a nuclear project. Clause 7(5) states that completion of the project should be based on

"successful completion of such procedures and tests relating to the project as constitute, at the time they are undertaken, the usual industry standards and practices for nuclear energy generation projects in order to demonstrate that they are capable of commercial operations."

I wonder whether hon. Members can spot what is missing from that subsection. This is not a quiz, and I think hon. Members have long gone to sleep—but in case not, the answer is that there is no suggestion in it that the nuclear power station actually has to produce anything. Construction could be regarded as complete provided that all the hoops have been jumped through, even if no button has actually been pressed. Presumably what one would regard as the original purpose of the whole operation is that it should produce some power that goes into people's homes, buildings and so on.

The amendment simply says that not only must all those things be completed, but the project must do what it was originally supposed to do: generate power. As the amendment describes it, the project must

"have generated power for placement onto the National Grid".

That seems a very modest amendment, but it would put right what I think is rather a serious omission in clause 7(5) with respect to the whole idea of what a nuclear power station is for. Surely we must agree that generating power is the purpose of a nuclear power station, and that completion must therefore be based on that purpose.

I cannot see any great reason why the amendment should not be accepted, but I am sure that the Minister has a very good argument why not.

Greg Hands: I thank the hon. Gentleman for moving his amendment. It is important that we consider that the scenario is remote; before allowing any project to have a RAB, we will obviously have conducted robust due diligence, using best practice benchmarking analysis to set the financing cap at a remote level. The project's investors will be incentivised to control costs below that level and will be penalised for project overruns. We are clear that this power of modification should be exercisable only during the construction of the plant, and have sought to do this in clause 7(4). This determines that this power cannot be exercised at any point once construction has been completed. For the purposes of this clause, we have defined the construction phase in clause 7(5).

The amendment would provide further qualification to the definition of the end of a project's construction phase. It seems to make it explicit that the purpose of the construction phase of the nuclear project is to build a plant that will contribute electricity to the national grid, and that might appear fair enough. However, the clause is intended to cover both the period of construction and the testing of the plant, to ensure that it can operate commercially to provide power. An early part of this testing is the connection of the plant to begin to provide power to the national grid. However, there is further testing that follows, to ensure that the plant can operate effectively throughout its life. We consider it appropriate that the option to increase funding to complete the project should run until all testing completes.

In a nutshell, I think the cut-off point proposed by the hon. Member for Southampton, Test is too early in the process. The point at which the power station connects to the national grid is not the point at which one can have 100% confidence in the project from there. Therefore, I thank the hon. Gentleman for his interest and concern, and of course we would not wish to see consumers being penalised, but unfortunately I think he strikes the wrong point in the process at which this clause would kick in. I urge him to withdraw the amendment.

Dr Whitehead: I concede that I may not have fully understood all the various tests that are undertaken to usual industry standards, but nowhere in this clause does it say that those tests include the production of power. That is my central point. It is a bit like going into a car showroom and being shown a really nice vehicle. It has all the bells and whistles on it, and all the guarantees; it looks greats and the paint is really good. But when one asks to go for a test drive, the person in showrooms says, "I'm sorry, you can't do that, Sir; it hasn't got an engine in it." Surely it must be about producing power. That ought to be explicitly in the Bill. That is my only point. If the Minister thinks that, concealed in all these various tests is the production of power, which does not seem to be the case to me, then maybe that is not needed on the face of the Bill. I think it would be rather good if it were on the face of the Bill.

Dr Jamie Wallis (Bridgend) (Con): Does the hon. Gentleman agree that we are in a very sorry place indeed if all the usual industry standards and practices for nuclear energy production do not actually include the production of energy?

Dr Whitehead: We would be in a sorry place, but that is effectively what the clause appears to state. It is all about the fact that it could produce energy, not that it does produce energy. Those are two potentially different things. The hon. Gentleman is right about the industry standards that set it all up to make sure that energy can be produced. I merely think it might be a good idea if we found out if it did produce that energy.

Alan Brown: I do not want to go on for too long but, further to the previous intervention, is it not the case that it can easily be argued that the EPR reactors currently being built are capable of generating electricity, but not one of the two EPRs under construction in Europe have started generating electricity for the grid? They are actually 10 years late, which underlines the point made by the hon. Member for Southampton, Test.

[Alan Brown]

Dr Whitehead: The hon. Member makes a good point. We have a number of nuclear reactors in Europe that look like they can produce energy, and they are still standing there not producing energy, many years after they were supposed to do so.

We will not press the amendment to a vote. I am a little disappointed that the Minister did not take the opportunity to add to the Bill what I think an average person reading the Bill would think obvious, but I know we cannot get what we want all the time. He has put forward reasons why he thinks that point is covered elsewhere in the clause. It would have been good if it was more transparent and up front. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

4.30 pm

Question proposed, That the clause stand part of the Bill.

Alan Brown: Again, I will be brief. I have a few comments on clause 7 stand part. Subsection (2) and paragraph 83 of the explanatory notes confirm that a licence can be modified to allow the cost cap to be exceeded, but also, critically, so that additional revenue can be collected. The Minister spoke about transparency. How can that power be applied transparently? Clause 7 references clause 6(4), but that subsection does not provide enough scrutiny of governance.

I will give an example. What is to stop a nuclear company begging another £1 billion? With the costs of a nuclear project, £1 billion here or there does not make much difference in the overall scheme of things. If the Secretary of State thinks, "I am so worried about security of electricity supply"—that is an argument we keep hearing on nuclear—under clause 6(4)(b), they can then decide, "Yes, this power station is so critical for future energy security, I will just throw more good money after bad." It is an easy step, and one that could be repeated several times—£1 billion here or there makes no difference.

This Government have already proven to be so pro-nuclear that they signed up to the most expensive power station in the world, Hinkley Point C, and so pro-nuclear that, after market failure, we are here debating this Bill, and, as was said earlier on, they have committed £1.7 billion just to develop Sizewell C to the final investment stage. We know they are so desperate to get Sizewell C over the line for the final investment stage, they are making that the newest, most expensive power station in the world, which we will be paying for for 60 years. So I do not understand how the clause gives protection and transparency for consumers, if costs go up. Invariably, costs will go up. It is unlikely that the risk is going to be carried by the developer. The risk under the RAB model is going to be carried by the consumers.

Greg Hands: Clause 7 provides the Secretary of State with the power to modify the allowed revenue of a relevant nuclear company where that is required to complete the construction of the nuclear RAB project.

I stress that this is a narrow power. Subsection (2) makes it clear that it can be exercised only where the expenditure to complete construction is likely to exceed a cap under the licence and to make modifications to the allowed revenue of the company. Subsection (4) means the power can only be used before the completion of construction, the point at which the plant is ready to enter commercial operations. That refers back to our previous debate. That is the right point at which this power ceases to be exercisable. The use of the power is at the discretion of the Secretary of State.

Alan Brown: Will the Minister explain how he sees the cap being set? Obviously, on a construction project, there is usually agreed risk sharing and that effectively sets a cap, but presumably, given the way the Minister is talking, there will be even more headroom here. How is that headroom going to be set and how transparent will that be, in terms of understanding what costs have increased to reach the cap?

Greg Hands: The financing cap will be set out at the beginning of the project by the Secretary of State. It will be available to be scrutinised. The purpose of the power in the clause relates to what happens in the event that we approach the financing cap.

The clause would have relevance in the very unlikely situation that, during construction, the project is likely to breach its financing cap under a RAB. The financing cap is the point at which investors are no longer required to put money into the project. What happens then? The cap is set at a remote overrun threshold. This means that before committing to a company having a RAB, the Secretary of State should be confident that the prospect of costs hitting that threshold is really very unlikely. Under the RAB licence, mechanics will be in place to incentivise investors to minimise costs and schedule overruns, such as overrun penalties. That will ensure that the breach of the financing cap is a remote risk.

When deciding whether to exercise the powers, subsection (3) means that the Secretary of State will need to have regard to the achievement of carbon targets and the interests of consumers, and whether the company is able to finance its activities. Those are the same considerations as when deciding whether to amend the company's licence to insert the RAB conditions in clause 6. Given the strategic importance of a new nuclear plant, and the wider considerations, such as our need to secure resilient low-carbon energy, it is more appropriate that such a decision is made by the Secretary of State in this instance.

The Secretary of State is also the most appropriate person to balance the interests of consumers, taxpayers and investors. It is not about putting additional burdens on consumers. The RAB is designed to protect consumers by giving them a more cost-effective nuclear power plant, as shown by the steps that we have taken in the Bill. That includes robust due diligence before the final investment decision to be confident that the project will be effectively managed, incentives on the project in construction, penalties for investors in any overrun scenario, and the option for the Government to step in if the project hits extreme overruns.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clause 8

PROCEDURE ETC RELATING TO MODIFICATIONS UNDER SECTION 6 OR 7

Dr Whitehead: I beg to move amendment 13, in clause 8, page 8, line 11, leave out from "power" to end

of line.

This amendment strengthens the requirement on the Secretary of State to publish details of license modifications.

Ms Fovargue, as there are no amendments or objections to the clauses from this one to the end of part 1, I suggest that it might be possible to dispose of them collectively to get to the end of part 1 this afternoon. The Opposition would have no objection to that.

I will be brief. Amendment 13 simply says that if the Secretary of State is going to publish something, they should get on and publish it. As it stands, the clause states:

"The Secretary of State must publish details of any modifications made under a relevant power as soon as reasonably practicable after they are made."

That is a weaselly dilution of the "must" at the start of the line—if the Secretary of State must publish details, they should just get on with it. Hon. Members will see that the following subsection states:

"If…the Secretary of State makes a modification…the Authority must…publish the modification."

That does not have the little weasel phrase at the end, so why is that weasel phrase in subsection (5) and not subsection (6)?

Alan Brown: I do not want to be a pain, but does not deleting

"as soon as reasonably practicable after they are made"

make the timescale for the Secretary of State to publish open-ended? In a way, the amendment is not tightening the timescale but leaving it more open-ended.

Dr Whitehead: My concern in this clause is that the phrase

"as soon as reasonably practicable"

gives the opportunity for almost limitless delay to publication. If the Secretary of State must publish details of any modifications, he must, and if he does not, he can be called up under the terms of the Bill. If that weasel phrase is in it, however, the delay could last for a long time. I suggest that the amendment tightens it up by saying that it should be published and that is it.

Alan Brown: I realise that we are arguing over semantics, but perhaps it should be amended to be "must publish details of any modifications made under a relevant power once that modification has been made" to try to bring absolute clarity that it needs to be published right away.

Dr Whitehead: Yes, that might have been a good idea, but unfortunately it is not on the amendment paper this afternoon. My amendment is, so I hope the Minister will consider ensuring that subsections (5) and (6) are consistent, so that both modifications made under both are required to be published, full stop.

Greg Hands: Amendment 13 addresses how soon the Secretary of State should be obliged to publish the details of any modification made under the relevant powers, as already referred to. We think the clause already provides a clear and transparent process, which includes consulting the named parties before exercising these powers and modifications, and then publishing medications made

"as soon as reasonably practicable"

after the fact. Of course, publication can exempt matters that are commercially sensitive or that relate to national security.

The purpose of the amendment is to remove the obligation on the Secretary of State to publish the details of any modifications as soon as practicable after they are made. The Secretary of State would therefore not be subject to an express time obligation on when the details of the modifications must be published. I welcome the Opposition's focus on ensuring transparency throughout the process of setting up a RAB for a project. We recognise that decisions to modify licences are important, and we believe it is necessary to provide a transparent decision-making process in legislation, as the Bill seeks to do.

I believe the amendment would reduce transparency, not increase it. I do not consider that it will help us to achieve the objective of a clear and transparent decision-making process. Removing the express obligation on the Secretary of State to publish details of any modifications as soon as reasonably practicable could result in uncertainty about when they should be published, which might cause the Secretary of State to unnecessarily delay the publication informing the public, stakeholders or industries of the modifications made. I hope that the hon. Members for Southampton, Test and for Greenwich and Woolwich will agree with that position; the amendment would reduce transparency, not increase it. I therefore ask that amendment 13 be withdrawn.

Dr Whitehead: I think we perhaps have a slight divergence of opinion here. We were seeking to simplify and create an imperative for publication by reducing the qualifications on that publication. The Minister has sought to suggest otherwise. We will have to disagree on that; however, we do not wish to push this to a vote this afternoon, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 8 ordered to stand part of the Bill.

Clause 9

Expiry of modifications made under section 6

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clauses 10 to 14 stand part.

Greg Hands: Briefly, clauses 9 to 14 lay out pretty clearly the direction of travel. No amendments have been tabled, so I assume there is contentment across the Committee with the clauses as they stand. They are perfectly drafted, though I say so myself, and I therefore urge the Committee to agree that they stand part of the Bill.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clauses 10 to 14 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Mark Fletcher.)*

4.44 pm

Adjourned till Tuesday 23 November at Two o'clock.

Written evidence reported to the House

NEFB05 Energy UK