

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT CONTRACTS FOR DIFFERENCE
(MISCELLANEOUS AMENDMENTS)
REGULATIONS 2022

Monday 23 May 2022

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The Committee consisted of the following Members:

Chair: STEVE McCABE

- | | |
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| † Afriyie, Adam (<i>Windsor</i>) (Con) | Hillier, Dame Meg (<i>Hackney South and Shoreditch</i>)
(Lab/Co-op) |
| † Anderson, Stuart (<i>Wolverhampton South West</i>)
(Con) | † Johnson, Gareth (<i>Dartford</i>) (Con) |
| † Ansell, Caroline (<i>Eastbourne</i>) (Con) | † Mearns, Ian (<i>Gateshead</i>) (Lab) |
| † Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP) | † Rowley, Lee (<i>Parliamentary Under-Secretary of State</i>
<i>for Business, Energy and Industrial Strategy</i>) |
| Bryant, Chris (<i>Rhondda</i>) (Lab) | † Vickers, Matt (<i>Stockton South</i>) (Con) |
| † Buchan, Felicity (<i>Kensington</i>) (Con) | † Webb, Suzanne (<i>Stourbridge</i>) (Con) |
| † Butler, Rob (<i>Aylesbury</i>) (Con) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Daly, James (<i>Bury North</i>) (Con) | |
| † Greenwood, Lilian (<i>Nottingham South</i>) (Lab) | Matt Case, <i>Committee Clerk</i> |
| † Hamilton, Mrs Paulette (<i>Birmingham, Erdington</i>)
(Lab) | † attended the Committee |

First Delegated Legislation Committee

Monday 23 May 2022

[STEVE McCABE *in the Chair*]

Draft Contracts for Difference (Miscellaneous Amendments) Regulations 2022

4.30 pm

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Lee Rowley): I beg to move,

That the Committee has considered the draft Contracts for Difference (Miscellaneous Amendments) Regulations 2022.

I am grateful for the opportunity to contribute today. In the sixth carbon budget, the Climate Change Committee emphasised the crucial role that carbon capture and storage will play in reducing emissions from industrial processes, combustion, electricity generation and hydrogen production. The energy White Paper 2020 set out the Government's view on how to achieve a low-cost, low-carbon electricity system. Although we cannot predict exactly what the generating mix will look like in 2035, we have made a commitment to decarbonise the UK's electricity system by then, subject to security of supply, and we are confident that renewables will play a key role. However, in order to decarbonise while maintaining security of supply and ensuring that costs are kept low, we will need to balance renewable variability against continuing demand. To do that, we will need system flexibility, energy storage and non-weather-dependent, low-carbon power generation.

Alan Brown (Kilmarnock and Loudoun) (SNP): On the Minister's comment about being unable to predict the energy generation mix in 2035, can he at least predict what the mix will look like in 2030? Clearly, the Government have set their own targets—for example, on what offshore wind will look like in 2030. We have a so-called energy security strategy, which I would have thought is key to the Government being able to predict what the mix will look like and then plan accordingly to facilitate that.

Lee Rowley: I am grateful for the hon. Gentleman's intervention. The point of what I am trying to articulate is that this is a journey that will potentially vary over the course of a number of months and years. We will not know whether it is 1%, 5% or 10%, but the journey of the overall mix is towards a renewable and clean energy future, and we are absolutely committed to getting there. We consider that thermal power with carbon capture and storage is one technology that will provide this at scale and help in the journey that the hon. Gentleman outlines.

In the subsequent net zero strategy, the Government committed to use consumer subsidies to support the construction of at least one power CCS plant, which is to be operational by the mid-2020s. In the round, these

strategies illustrate the critical importance of carbon capture and storage technologies, and we have developed specific business models to bring forward carbon capture, utilisation and storage projects. Existing schemes are not considered fit for purpose, because such projects require specific support, given the need for co-ordination across the sector, with supporting infrastructure yet to be built. To enable this, we have developed the dispatchable power agreement. This is a carbon capture storage subsidy for gas-fired projects connected to a full carbon capture and storage system, and it is intended to provide low-carbon, flexible power generation.

The dispatchable power agreement contract is a bespoke contract based on the standard terms of the contracts for difference used previously in allocation rounds, but with specific amendments to ensure suitability for power carbon capture and storage. The dispatchable power agreement will be a key tool used to ensure low-carbon electricity generation by bringing forward investment in power carbon capture storage plants, and to incentivise such facilities to operate in a manner that benefits the UK energy market. The DPA incentivises investment in order to bring forward projects that are ready to build low-carbon generation capacity. The availability payment incentivises power CCUS projects to maintain a high level of capture rate throughout the life of a contract. It is commonly referred to in the business model and is intended to implement our commitment.

The draft regulations were laid before the House on 31 March 2022. The amendments in the instrument laid before the House today are therefore needed to ensure that existing regulations under the Energy Act 2013 can be used to award DPAs. Those regulations are used to award contracts for difference currently: the proposed amendments are not intended to impact the standard CFDs for the current allocation round or future allocation processes of the standard contract for difference.

This statutory instrument introduces three changes to the existing regulations: the Contracts For Difference (Allocation) Regulations 2014—the allocation regulations—and the Contracts for Difference (Definition of Eligible Generator) Regulations 2014—the eligible generator regulations. The statutory instrument amends the eligible generator regulations specifically with regard to the definition of an eligible generator. Currently, new-build generating stations connected to a complete carbon capture storage system are eligible generators. The change we propose allows a retrofitted carbon capture storage project to constitute an eligible generator. It does that by widening the criteria for carrying out a generating activity to include altering an existing generating station into a generating station connected to a carbon capture storage system. By making that change, retrofitted power carbon capture storage plants can be eligible for the dispatchable power agreements.

The statutory instrument also amends the allocation regulations. Currently, the allocation regulations include a specific reference to the contracts granted pursuant to section 10 of the Energy Act 2013. The regulations refer to such contracts and the language suggests that they will include a strike price and a reference price within their payment mechanism. The amendment retains the reference to a strike price and a reference price, but also amends the language to state that such prices may be included, although an alternative payment mechanism that does not use those terms could be used in future.

That ensures that contracts that do not specify a strike price and a reference price can be contemplated. It means that there will not be a requirement for those specific terms to be used in dispatchable power agreements, which will allow for the alternative mechanisms that I have suggested.

Finally, the statutory instrument amends the eligible generator regulations. Currently, an eligible generator is defined as connected to a complete CCS system, and a complete CCS system is defined as a system of plant and facilities for capturing some or all the carbon dioxide, or any substance consisting primarily of carbon dioxide, produced by or in connection with the generation of electricity by a generating station, and transporting the carbon dioxide or the substance captured and disposing of it by way of permanent storage. The proposed amendment was to add the words into limb (b) after transporting—

“including by way of non-pipeline transport methods”—

to make it clear that transport can contemplate alternative transport methods. The existing language does not necessarily limit the potential methods by which transport can be done, but it makes it unambiguous that this definition is not intended to be limited to pipeline methods. That is consistent with the consultation respondent who noted that it would be helpful that transport could be carried out by way of non-pipeline methods.

The proposed amendments in this statutory instrument are intended to facilitate non-pipeline transport generally. The proposed changes to the eligible generator regulations aim to be neutral regarding what those possible configurations could be.

To confirm that this statutory instrument is the most appropriate way to approach this area, in accordance with the Energy Act 2013, a consultation was carried out last year between July and September, and a response was given two months ago on gov.uk. We received 16 responses to the consultation; some directly involved in power CCS, some trade associations, some non-governmental organisations and other interested parties. The responses were largely positive and in favour of the proposed changes. Respondents requested some clarification, which have been provided in the official published Government response.

Alan Brown: Will the Minister explain why no impact assessment was done for the draft regulations? We are talking about consumer subsidies, so we should have an impact assessment of what it could mean for people's energy bills.

Lee Rowley: I will be happy to answer the important point the hon. Gentleman raises when I conclude, along with any other comments made.

Let me conclude in order to give Members the opportunity to comment. The draft regulations facilitate the Government's CCUS programme generally, but the decision to award support is separate. Decisions about the specific support that will come through those remain subject to the outcome of a separate process and value for money and affordability considerations. The measures introduced by the SI are aligned with the Government's carbon budget and net zero targets, as they help to enable power carbon capture and storage projects. I commend the draft regulations to the Committee.

4.40 pm

Dr Alan Whitehead (Southampton, Test) (Lab): I cannot see a great deal that is terribly controversial in the draft regulations, so we will not seek to divide the Committee. Indeed, we substantially support the proposals. Clarifying the eligible generator regulations in terms of CCS systems of concern is an important change being made today in this SI. It is important because when we talk about CCS as a whole system, we tend to talk about the carbon being captured, transported and sequestered, and we always talk about that in terms of pipelines and how CCS is going to work.

Not only are we some way away from establishing decent pipelines for CCS transportation, but—particularly as far as energy-intensive industries are concerned—they are not necessarily going to where the pipelines might be. The question is how we transport the carbon to the places where the pipelines are, or we might want to barge entire shipments of CCS right around the country. Indeed, the Minister will know that the Acorn Project in Scotland is currently developing barge receipt facilities so that the CCS that is transported by barging methods can then be transferred to its place of sequestration efficiently.

The regulations are important. They clarify what is in and what is out of the process. I want to ask the Minister about processes that will inevitably come into view as far as the CCS process is concerned, but have other things added in front other than the CCS. I particularly refer to the so-called BECCS, the biomass energy with carbon capture and storage, which, again as the Minister will know, is recommended by the Committee on Climate Change. Also, the Government are keen on BECCS in the long term as it combines biomass power with a CCS capture arrangement, so that the whole arrangement is negative as far as energy is concerned.

Last year's similarly named regulations, the Contracts for Difference (Miscellaneous Amendments) Regulations 2021, brought to an end the establishment of BECCS as a conversion arrangement from coal. They stated that biomass energy involving carbon capture and storage would be treated separately. The explanatory notes indicated that they would not be subject to today's regulations because they were being treated separately, and they do not appear to have come into these regulations. We could, for example, have a conversion activity from a coal plant to biomass that included CCS in its arrangement from the start of the conversion process. Indeed, it is envisaged that conversion schemes can be included in the eligible generator regulations—that is, they are add-ons to existing activities, as opposed to schemes starting from new—which the Minister mentioned in his opening comments.

It is not clear whether a biomass scheme that had CCS from the start but was not a new scheme in its own right would be within or outside these regulations. I would be interested to find out whether the Minister has considered that knock-on from last year's regulations. Could he clarify the situation? Are such schemes considered outside or within the eligible generators for the purposes of these particular regulations?

Has the Minister yet had any sight of the biomass strategy, which—it was claimed last year—would come out in 2022? It is now 2022, and it has not arisen. It may be that the solution is in that strategy paper. It would be

[Dr Alan Whitehead]

interesting to hear whether the Minister could give us any clarification on that particular point, or whether he wishes to leave that to when the strategy—if and when it comes out—elucidates matters.

4.47 pm

Adam Afriyie (Windsor) (Con): I will be very brief. I just want to give the Minister some warning that I will ask a technical question, so that he has time to reflect before he makes his closing comments.

First, I welcome these regulations. Bizarrely, I actually quite enjoyed the Committee on last year's regulations. For me, it enshrined what needed to be done to ensure that the market worked well for carbon capture and storage. Contracts for difference and the flexibility in the way that they are allocated make perfectly good sense. I was also reminded that, back in the 17th and 18th centuries, we in this place sometimes legislated for a specific piece of agriculture equipment. It has always struck me that, if we are too inflexible with the technologies that we define in legislation, we will get ourselves into difficulty.

These changes are very welcome. As pointed out by the Front-Bench spokesman, the hon. Member for Southampton, Test, power generation is evolving pretty quickly. People are developing membranes with algae that can absorb and store carbon. All sorts of technologies are under way, which is why I very much welcome these particular regulatory changes. In particular, I welcome the definitions of what constitutes a generator and carbon capture and storage—is it a complete system or a retrofitted system? That is all fantastic.

My technical question is: why are the reference price and strike price for these contracts for difference being marginally redefined or specified in a slightly different way? I was not clear on that. Could the Minister, on reflection, explain in his closing remarks why those two aspects of the regulations are being updated? I am sure it is for a perfectly good reason, but I would be interested to hear why.

4.49 pm

Alan Brown: It is a pleasure to serve under your chairmanship, Mr McCabe. I welcome the regulations, as far as they go, although, frankly, they do not go that far in the big picture. It is mystifying why it has taken so long to get to this stage, considering just how important carbon capture and storage is going to be. As the Minister stated, it is part of the pathway to net zero, and it will also be critical for meeting the 2030 nationally determined contribution, with its target of a 69% reduction in emissions.

With that in mind, it is surprising that paragraph 7.1 of the explanatory memorandum states that the DPA “is in the process of being finalised”.

Can the Minister confirm the timescale for the creation of the DPA documents? Paragraph 7.1 also restates the intention, which the Minister mentioned, to have at least one CCS power plant operational by 2030, supported by consumer subsidies. What is his anticipated timescale for getting agreement and sign-off of the final investment for that power station, because 2030 does not give us that long to have a new CCS power plant operational?

Is it still the case that consumer subsidies will be allocated to only one single CCS power station pre-2030? If so, does that mean that the favourite for the new station is the one in the Humber and Tees cluster? Does that mean Peterhead and the Scottish cluster will still be lagging behind and remain in reserve status, rather than being put into track 1, which frankly is still letting down the north-east of Scotland?

Paragraph 7.4 of the explanatory memorandum mentions that applications have been made by power station companies. How many applications have been made and when will the Government sift through them and begin to take them forward?

It seems clear from paragraphs 7.4, 7.11 and 7.13 of the explanatory memorandum that the strike price or pricing mechanism is an all-in price for the electricity and the carbon storage element. Can the Minister confirm that I have read that correctly and that there is no intention to have a separate pricing mechanism for the storage of carbon dioxide? I ask that because there have been discussions previously about formulating a business model for carbon dioxide storage. Is there an intention to bring forward a pricing mechanism for the storage of carbon dioxide? That will probably be required when looking at storing emissions from the industrial clusters, because they need some sort of reward mechanism. Or with a carbon pricing mechanism will be developed such that it becomes just as cost-effective to store the carbon dioxide as to pay a carbon tax?

How will the Government assess the relative merits of a new build CCS power station versus retrofit in terms of value for money? If the carbon dioxide is transported by heavy goods vehicle or ship, how will the Government take cognisance of the additional carbon footprint of such projects? It would be self-defeating to have a so-called zero carbon power plant that relied on diesel ships to transport the carbon dioxide to be stored somewhere else.

Paragraph 7.13 of the explanatory memorandum makes it clear that the payments will effectively be for the additional costs associated with carbon capture, with a separate payment for the plants being available to dispatch power when required. Is that the correct approach, or should the Government consider even greater flexibility? The shadow Minister touched on biomass carbon capture and storage. Biomass plants have a constant output of electricity. Surely, the Government need to consider a strike price for electricity generated on a constant basis from the likes of biomass plants. Is that something that they will look at? Will further amendments to regulations, or separate regulations, be required to help facilitate that?

On dispatchable electricity, the approach illustrates perfectly why a similar attitude is needed from the Government towards pumped storage hydro. That would be really beneficial. Pumped storage hydro technology has been in place for decades. I have constantly raised the fact that SSE has all the permissions in place for the proposed new pumped storage scheme at Coire Glas in the highlands, and Drax is almost there for its proposed doubling of output at Cruachan dam. Why are the Government not looking at dispatchable power agreements or a minimum floor price for electricity for those projects?

Coire Glas could be operational by 2030. With more proactive support, it could have been delivered quicker than that, and it is quite possible that it could still come

on stream before Hinkley. Where are the Government with dialogue and discussions on business models to allow pumped storage hydro to proceed? Getting these shovel-ready projects going will send a signal to investors who will bring forward other pumped storage hydro schemes.

It was reported on Friday that that Hinkley Point C is now plus 50% in cost, and that it will be summer 2027 before reactor 1 comes online. Hinkley will cost about £26 billion. The Government will argue that, nominally, that additional cost will be swallowed by EDF, but no company can swallow £8 billion in additional cost without trying to recover it from consumers or, frankly, it would go bankrupt. Coire Glas pumped storage hydro would be built for a maximum of £1.5 billion. Instead of spending so much on nuclear, the Government would be better investing in more dispatchable energy. That is something that they need to look at as part of the big picture.

On power stations with CCS, whether they are new or retrofitted, does the Minister envisage that each agreement will be bespoke, depending on the plan and individual negotiations, or will there be an auction process, in the way that conventional CfD auctions are held? If the arrangements are bespoke, what does that mean for utilising cost consultants, and is the existing capacity in the Low Carbon Contracts Company enough to deal with such new contracts? Why is there no impact assessment for what this could mean for consumers' bills, especially as we are in this cost of energy and cost of living crisis?

I put it to the Government again: why is everything done in dribs and drabs? When will they amend the Electricity Act 1989 to define electricity storage as a distinct subset of generation? This is the third Parliament in which I have been getting the same answer to my written parliamentary questions on this matter: "When parliamentary time allows." Why are we not doing a strategic look at the legislation and all the policies required to facilitate storage and dispatchable energy, instead of a wee bit here and a wee bit there? When will we have an energy security strategy that is actually a strategy and not simply targets?

I have to say that I welcome the offshore wind and floating offshore wind targets that have been set for 2030, but what is being done to have a holistic, forward-looking look at what grid upgrades are required to facilitate these new targets? RIIIO-2 probably already needs to be revised because of the new 2030 targets. Such a strategy should also determine what additional dispatchable energy will be required—and any coherent strategy would eliminate nuclear, which I have already touched on.

Much more work is required urgently, strategy-wise, to address key issues, to get the Scottish CCS cluster into track 1, and to get agreement for pumped storage hydro schemes as a priority. I hope that the Minister can address those questions.

The Chair: A few things there to get your head around—Minister.

4.57 pm

Lee Rowley: I thank everyone for their contributions. I welcome the welcome: as a Committee, I think we are broadly in assent with the substantive points in the

regulations. Alongside that, there were a substantial number of questions, some about the specifics of the statutory instrument, which I shall address as best as I can, and some about energy policy more broadly.

While I accept hon. Members' challenge to contextualise what we are talking about today, I hope that they will forgive me if I do not seek to delay the Committee too long by debating aspects of broader energy policy, such as the validity and value of nuclear, the potential alternative approaches with hydro, grid upgrades and the like, simply because they are broader than this relatively narrow SI and there are opportunities elsewhere in this place to debate them.

I completely understand and acknowledge the points made by the hon. Member for Kilmarnock and Loudoun, but "dribs and drabs" is perhaps a little unfair. We are trying, in a careful, cautious and incremental way, to address the specific issues that we need to address to ensure that our statute book works for some of the changes that we are making, with a very ambitious and broad-based approach to transforming and decarbonising the energy system over the long term.

The hon. Gentleman asked about the impact assessment. There is no requirement at this stage to undertake an impact assessment, although he can see from the process that we have undertaken, particularly around the consultation, that a significant amount of work was done to understand people's views. When we have changed the law and we are seeking to put things through the process we are changing today, appropriate consideration can be given to various mechanisms. We have been clear that there will be changes, and I referred to some of them in my opening speech.

The hon. Member for Southampton, Test asked a number of detailed questions about biomass. My understanding is that BECCS could be eligible, provided that it is connected to the complete CCS systems that I talked about in my opening speech and that are mentioned in the broader contextual documentation that is available. However, on the broader questions about biomass, I again defer to the strategy, which will be published in due course.

Alan Brown: Paragraph 7.13 of the explanatory memorandum states clearly:

"It is not directly linked to the actual amount of electricity it produces but rewards the plant for being available when needed and capturing the level of CO₂ as required."

That is still talking about dispatchable energy, whereas biomass would be a constant output. I do not see how that would allow BECCS to be included in the scheme, so I am looking for further clarity.

Lee Rowley: I am grateful for the hon. Gentleman's question. My understanding is that we are allowing BECCS to be eligible in general, but the specifics and the detail—recognising that there are two different elements of both generation and capture through the energy value chain and how they interact—will need to be dealt with on a case-by-case basis and looked at in the round when we launch a process to move on as part of this process of changing the statute book.

My hon. Friend the Member for Windsor asked about the reference price and the strike price. I do not think there is anything more apparent here than simply

[Lee Rowley]

adding an additional layer of flexibility. We are not saying that we are definitely doing something else, or that we definitely want to move away from reference prices and strike prices; to the point raised by the hon. Member for Kilmarnock and Loudoun, this is just about ensuring that we do not have to come back again if we determine in the future that a different model is appropriate—one that does not mention reference prices and strike prices but potentially mentions some other element.

Dr Whitehead: I wonder how that ties in with what is in the carbon capture and storage business plan about the articulation of strike price and reference price-type arrangements in capex and opex as the system progresses. That suggests that the system is more of an RAB system than a CfD system. In the Minister's mind, how do the two interact?

Lee Rowley: I am grateful for the hon. Gentleman's question. The narrow assessment that we are doing today is to try to ensure that the statute book is as flexible as it can be in the event that alternative models emerge. The technicalities of those alternative models would need to be debated and discussed with experts. For the moment, we are trying to ensure that the legislative framework allows for that variation, should it be necessary. Whether it will ultimately be necessary is a broader question, which will be addressed in due course.

The hon. Member for Kilmarnock and Loudoun raised some important questions about timelines for power plants, the number of power plants and where

they will be located. I am sure he expects me to say this, but I am not in a position to outline the precise process by which the system will be operationalised, I am not in a position to confirm whether it is one or n, and I am certainly not in a position to confirm where those locations—singular or plural—will be. This is about getting the legislative and statutory framework ready to be able to make those decisions, which will be made in due course through the appropriate processes.

I make a similar point about bespoke versus auction processes, and about some of the technical questions that the hon. Gentleman asked about comparisons between new and older. He also asked about the broad true cost of transportation, whether it is pipeline or non-pipeline. He makes an important point, and that will all need to be considered in the round when we come to operationalise the changes in due course.

I hope that I have addressed many of the key questions relating to the SI. There is obviously a broader debate about energy policy and some of its elements, but I hope that the Committee is minded to support these technical changes to the rules and regulations that govern these areas, so that we have the flexibility to ensure that we can develop this technology and operationalise it successfully. I commend the regulations to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Contracts for Difference (Miscellaneous Amendments) Regulations 2022.

5.5 pm

Committee rose.