

PE2095/B: Improve the public consultation processes for energy infrastructure projects

Minister for Climate Action written submission, 21 October 2024

I refer to your letter dated 23rd September 2024 regarding this petition, and I enclose my response to your questions below.

Background

The petition calls on the Scottish Government to

- review and update section 3.2 of the [Energy Consents Unit: Good Practice Guidance for Applications under Section 36 and 37 of the Electricity Act 1989 - February 2022](#) to address the concerns of communities about the lack of meaningful, responsible and robust voluntary and pre-application consultation by transmission operators on energy infrastructure projects, and
- to explore all available levers to strengthen community liaison and public participation for the lifecycle of energy infrastructure projects.

Scottish Government Responses

You asked what engagement the Scottish Government has had with the new UK Government on regulatory powers that would put pre-application engagement for electricity transmission on a statutory footing, and for further detail on previous representations to the UK Government on this point, and clarification of the Scottish Government's position in respect of these matters.

You also asked about opportunities for communities to influence more than just route options – i.e. whether transmission operators should place infrastructure underground or offshore, and also how the Scottish Government views the role of public participation in decision making. I deal with all of these questions below.

The Scottish Government's position is that pre application community and stakeholder engagement, placed on a statutory footing, is vital to improve public participation in the development of proposals, and to improve the quality of applications that are eventually submitted for consideration. In relation to public participation, the public should be informed early in the process, and be given sufficient information and reasonable time limits to allow views to be expressed in an appropriate manner, at appropriate times, to provide meaningful opportunities to participate in decision making.

It is expected, although not currently a statutory requirement, that when applications are submitted to the Scottish Ministers, that a proposed development has already been the subject of effective community engagement. Views from the public as to alternative technical means of providing a transmission connection, for example where underground alternatives are sought by members of the public, may be expressed at pre application stage and the Scottish Government expects developers

to set out within applications how any such views have been considered through pre application.

Prior to 2022, Energy Consents officials had sought engagement with the UK Government over many years to modernise the processing of applications in Scotland without success. In 2022, on learning of the introduction of what passed into law as the Energy Act 2023, the Cabinet Secretary for Net Zero, Energy and Transport wrote to the Secretary of State for Business, Energy and Industrial Strategy seeking to take that legislative opportunity to fully devolve the energy consenting regime to Scotland , which would have allowed pre application engagement to be placed on a statutory footing as well as achieving necessary reforms to improve the process as a whole for all participants. Again, this approach was not successful, and the request was not taken forward by the UK Government.

The Electricity Commissioner, Nick Winser, recommended in his report to the UK Government in August 2023, amongst other recommendations that introduction of pre-application requirements including community engagement for electricity consenting in Scotland should be introduced. This report was made following engagement with Scottish Government officials. The UK Government responded in its Transmission Acceleration Action Plan in November 2023, stating that following the Commissioner's recommendations, they agreed that reforms are needed to the Scottish energy consenting system. They committed to a review of the system, working closely with the Scottish Government to present a set of proposals for consultation in 2024 which will cover the Commissioner's recommendations.

That review, involving joint working between Scottish and UK Government officials, began in March this year and has now concluded. A consultation is expected to launch soon. The proposals will include a statutory pre application community and stakeholder engagement process which would apply to all transmission infrastructure projects.

Alongside this, work has recently started to construct Scottish Government guidance for pre application engagement with communities, which will align with proposals in the consultation. The Scottish Government will engage with communities for their views on the process to be set out in the guidance before it is finalised. The Scottish Government wishes to ensure that affected communities and the public can have confidence that the pre application process to be endorsed by the Scottish Government, will provide the necessary information on proposed developments, at the right places and at the right times, for people to be properly informed; and, to have their views considered when there is a meaningful opportunity to influence proposals. It will also provide assurance that the Scottish Ministers can evidence that public and local community views have been fully considered in the development of proposals before they are submitted to them for consideration.

I hope this fully answers the Committee's questions.

Yours sincerely,

Alasdair Allan