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Edward Mountain MSP
Net Zero, Energy and Transport Committee
The Scottish Parliament
Edinburgh
EH99 1SP

11 January 2023

Dear Edward,

THE ELECTRICITY (APPLICATIONS FOR CONSENT AND VARIATION OF CONSENT) (FEES) (SCOTLAND) AMENDMENT REGULATIONS 2022 (SSI 2022/310)

Thank you for your letter dated 13 December 2022 regarding the above.

The Committee has sought detail on the impact of the move to full cost recovery and what associated impact this will have on resourcing the current applications system, noting concerns raised from industry stakeholders regarding timescales for determination of applications.

Scottish Ministers reviewed the application fees and identified a shortfall between the cost of running the Energy Consents Unit (ECU) and Marine Scotland Licensing Operations Team (MS-LOT), and the income from application fees. The review also recognised the volume of applications being submitted is rising significantly, as Scottish and UK strategies and policy drive a transition to a more decarbonised energy system and the associated grid infrastructure.

The Scottish Public Finance Manual sets out that the standard approach to setting out charges for public services should be full cost recovery. Prior to the increase in the fees, the income from fees charged for applications under the Electricity Act fell short of the costs of providing the service of determining such applications. This is incompatible with the standard approach to setting charges for public services. Full cost recovery was required to align with the aims of the Scottish Public Finance Manual, and it was recognised that not achieving full cost recovery was not sustainable given the increase in the volume of applications. The Scottish Government therefore considers that the revised fee levels introduced by the Electricity (Applications for Consent and Variation of Consent) (Fees) (Scotland) Amendment Regulations 2022 will allow us to reach full cost recovery and maintain the existing level of service.

The Committee posed two specific questions, the answers to which are set out below.

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Will the Regulations make a significant difference to timescales for determination of applications?

As noted above, the aim of increasing fees under the Electricity Act 1989 is to achieve full cost recovery for charges for public services. Notwithstanding any change to fees, the ECU and MS-LOT are continually reviewing the energy consenting processes, making further improvements and efficiencies where possible with the aim of reducing determination timescales. The applications received and processed by ECU and MS-LOT are for complex electricity generation and grid infrastructure projects, and there are a number of factors that contribute to the timescale for determination, including the statutory requirements of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017. For example, where Scottish Ministers need to request supplementary information, which is subsequently prepared and provided by the developer, also where consultees require an extension to their allotted time to provide a response. These factors are not readily resolved solely by the increase in the application fee. Stakeholder engagement is currently ongoing exploring a range of ways to accelerate the determination of these applications.

Will the Regulations sufficiently resource the decision-making structure and process?

At the present time, given the type, scale and complexity of applications currently being received, the increase of application fee through the Regulations will sufficiently resource ECU and MS-LOT to process applications. The fee levels introduced were devised to reflect anticipated costs of sustaining sufficient staffing resources within ECU and MS-LOT. There is some uncertainty on the number and complexity of applications which will be submitted as this depends on developers coming forward with their projects. However, the implementation of the revised fees will be monitored and we have committed in the Business Regulatory Impact Assessment to review the fees again after 3 years.

Your Sincerely,

MICHAEL MATHESON

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