



The Scottish Government
Climate Change Bill Consultation
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23 April 2008

Dear Sir / Madam,

Consultation on Proposals for a Scottish Climate Change Bill

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include coal and gas-fired electricity generation, combined heat and power plants, electricity networks and energy supply to end users. We have around 5 million electricity and gas customer accounts in the UK, including both residential and business users.

We welcome the opportunity to respond to the Scottish Government's proposals for a Scottish Climate Change Bill. EDF Energy's principal reason for responding is to encourage consistency between the Scottish Climate Change Bill and the UK Climate Change Bill, with particular reference to budget periods, targets and compliance. This will minimise the discrepancy in regulatory compliance costs between direct and indirect emitters in England and Scotland.

EDF Energy recognises that it is important for Scotland to develop targets that reflect the country's political ambition and to achieve the greatest possible level of emissions reduction at least cost. However, the policies and measures affecting Scottish emissions are greatly influenced by EU and UK policy and measures. Therefore:

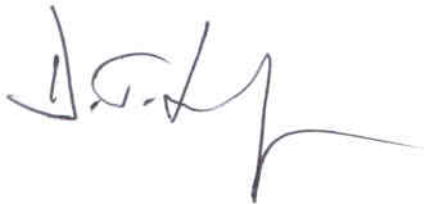
- it is necessary to factor into the Scottish climate change targets the implied emission reductions resulting from the EU ETS (taking into account complementarity provisions). This can be achieved through a process of "net carbon accounting" whereby the implied emissions reductions from allowance purchases are counted towards the Scottish emissions reduction target;
- emissions that are influenced by policies and measures outside Scotland (i.e. non-energy intensive organisations, domestic consumption) should be taken into account in the Scottish Climate Change Bill. Evidence that over/underperforming UK measures (renewables and energy efficiency) are responsible for a percentage

decrease/increase in Scottish emissions should be taken into consideration when setting the Scottish budgets.

EDF Energy has answered questions under Targets and Supporting Framework sections only. These sections are critical to ensuring consistent application of the two respective Bills. Our answers are provided in the attachment to this letter.

Please do not hesitate to contact either myself or Freya Phillips on 020 7752 2564 if you have any questions.

Yours sincerely

A handwritten signature in black ink, appearing to read "Denis Linford".

Denis Linford
Director of Regulation

Attachment

Consultation on Proposals for a Scottish Climate Change Bill

EDF Energy Response to Questions on Targets and Supporting Framework

EDF Energy has answered questions under Targets and Supporting Framework sections only. These sections are critical to ensuring consistent application of the two respective Bills.

Targets

Q 1. Should a Scottish target be based on carbon dioxide only or the basket of six greenhouse gases?

We believe the Scottish Government should maintain the focus of the targets and budgets on CO₂ emissions as this stage. In Scotland, CO₂ emissions account for around 80% of greenhouse gas emissions and are the primary area of emissions growth. In addition, this is aligned with the UK Climate Change Bill which currently focuses on CO₂ emissions with a power conferred on the Secretary of State to include additional greenhouse gases if necessary or expedient.

Q 2. Should the Bill contain provisions to alter which gases are included, for example if the reliability of data for a particular gas improves or if science changes in the future about which gases cause climate change?

We support the Scottish Government's desire to review the need to move towards a broader system of greenhouse gas targets and budgets and review instruments that are suitable for the reduction of other greenhouse gases. To drive the long term investments needed to make deep cuts in greenhouse gas emissions, investors need a long-term stable policy framework with a clearly defined trajectory of emissions reduction requirements. Any move to include greenhouse gases at a later date should be done in a way that doesn't undermine or compromise existing CO₂ targets and budgets.

New greenhouse gas targets, if introduced in a single composite budget based on the global warming potential of each gas, should only be implemented at the start of 5 year budget period to ensure they do not undermine the existing CO₂ targets and budgets and create uncertainty within budget periods. The introduction of these targets will require adequate notification and information disclosure.

This approach is consistent with UK Climate Change Bill and any decision to expand the Bill to include more greenhouse gases should be made in consultation with the UK Committee on Climate Change. This will ensure synergies between targets and policy measures.

Q 3. The Scottish Government wishes to ensure that the Bill gives sufficient incentives to invest in energy efficiency and renewable electricity. Should the targets be based on source emissions; an end-user inventory; or on individual targets for energy efficiency and renewable electricity? Do you have any other suggestions?

EDF Energy believes the primary focus of the Climate Change Bill should be on carbon or greenhouse gas emissions reduction for the following reasons:

- The implementation of additional energy efficiency and renewable energy targets by the Scottish Government could detract from the primary objective of the Bill which is carbon or greenhouse gas emissions reductions and undermine Scottish contribution to EU and UK targets. This does not preclude the Scottish Government having separate policy instruments to deliver renewables and energy efficiency objectives.
- Targets based on source emissions are consistent with existing international targets and UNFCCC reporting guidelines. New methodologies may need to be devised in order to report emissions under a scheme based on end-user inventory targets.
- Reporting source emissions is consistent with EU requirements and UK Climate Change Bill proposals. This will facilitate the ability of the Climate Change Committee to draw comparisons between the functioning and performance of the two schemes.
- End-user inventory emission calculations will be based on an estimation of Scottish emissions. The Scottish Government is faced with a similar problem to the one outlined in 5.42 whereby it has limited influence over a large percentage of Scottish emissions and, consequently, the “carbon factor” used to calculate end-user inventory emissions.
- The Scottish Government has some flexibility (banking and borrowing) to compensate for inability to influence some policies and measures.

Q 4. Do you agree that the Bill should allow the means of measuring the target to be changed through secondary legislation to reflect international developments or unforeseen consequences of the Bill?

If the Government requires the flexibility to modify future targets then the criteria and methodology for modification must be clearly set out. The power to introduce more onerous targets by secondary legislation should itself be subject to a procedure that is more stretching than the normal process for changing primary legislation by order or secondary legislation. An example would be the protections that are applied to the order-making powers available under the Legislative and Regulatory Reform Act 2006.

The timescales for such revisions must be sufficient to allow business to make an assessment of the direction of future policy changes (predictability) and incorporate the risk into its investment decisions.

EDF Energy believes that the criteria for reviewing targets must be kept to an absolute minimum to prevent reviews from undermining the regulatory stability that the Bill is seeking to provide. Any power introduced, that allows changes to be made, should therefore be constrained by the following conditions:

- the powers should not provide for a relaxation of the target; the target reductions could however be increased, for example in response to an increase in the EU greenhouse gas emission reduction target from 20% to 30% or an increase in the UK greenhouse gas emission reduction target and carbon budgets; and
- once set, the CO₂ budget for any budget period should not be relaxed, it could however be made more stretching – this condition would prevent the relaxation of the 2050 target once three five year budget periods extend to cover 2050.

Preventing the relaxation of budgets and targets does potentially create some risk for the Scottish and UK economy. However, we believe that this risk is small due to:

- the broad consensus on the need for early action in response to climate change science;
- the evolutionary nature of climate change science developments and as a result the confidence in the certainty of outcomes; and
- political EU agreement for, if necessary, unilateral action.

Q 5. Should the emissions reduction target take account of the abatement effort made by companies under emissions trading schemes? If so, how?

The Scottish climate change targets should incorporate emissions reductions from the installations and companies that are regulated by UK or EU emissions reduction

policies (i.e. EU ETS, Carbon Reduction Commitment) and take into account supplementarity provisions.. This is necessary to ensure that Scottish emission reductions are “additional” to existing policies and measures.

At present a number of policies and targets are implemented at a UK level and are not differentiated between Scotland, England and Wales. Additional targets for Scotland can be identified by apportioning UK targets between England, Scotland and Wales possibly based on an installation baseline which can be aggregated at national level.

It is also important that additional reductions should not be achieved by tightening and amending existing UK policies and targets e.g. CRC. This avoids increasing the cost of compliance to all participants, including English and Welsh participants, in order to meet more challenging Scottish reduction targets.

However, there is limited opportunity for the Scottish Government to exceed the emission reduction targets outlined in EU and UK policy measures. To do so the Scottish Government would have to implement additional policies and measures that may not be cost effective. It is for the Scottish Government to determine whether the additional value from domestic abatement exceeds the potential additional cost of the additional Scottish measures relative the cheapest abatement measure within the EU.

Q 6. Do you agree that international credits should be counted towards Scottish targets? Should there be limits on credits counted towards Scottish targets?

The EU Commission is proposing to restrict the use of CDM/JI credits as a measure for complying with the 2020 GHG emissions targets for both the traded and non-traded sectors. Therefore, it is essential that the Scottish Climate Change Bill provides a Scottish Government view on the level of supplementarity that it deems acceptable, beyond the Commissions advised limits, and therefore establishes a minimum level of domestic abatement required. Without this clarity there is a risk that industry will simply adopt a strategy of purchasing carbon credits from overseas rather than making physical CO₂ abatement investments in the Scotland.

In determining its view on the permissible level of allowances purchased from other countries, the Scottish Government must consider the financial risks that this creates. We have seen a significant divergence between actual CO₂ emissions and targets for the UK sectors that participate in the EUETS. In Phase 2 of the EUETS the UK electricity sector could be required to purchase 70 million allowances per annum to comply with its targets. The costs for compliance will eventually feed into the UK economy and will expose the UK to carbon price shocks driven by volatility in carbon markets in much the same way that it is exposed to sudden oil and gas price movements. We therefore

believe it is important for physical emissions in the UK to broadly track the UK's emissions reduction targets.

Furthermore, being too dependent on emissions reductions in other countries and failure to reduce emissions domestically will undermine the Scottish Government's credibility and its ability to become a leader on climate change action and policy development.

Q 7. Should the Bill allow the level of the 2050 target to be changed through secondary legislation? If so, should this only be allowed on the basis of independent, expert advice, to reflect international developments or unforeseen consequences of the Bill? Should any changes to the target be limited to an increase in the target?

Refer to Question 5.

Supporting Framework

Q 8. What factors should be taken into account when setting the level of budgets?

EDF Energy agrees with the list of criteria that should be taken into account when setting the level of the budgets.

Q 9. How long should interim budget periods be?

EDF Energy supports the proposal to use five year emissions budgets, established for several periods ahead, as interim targets to ensure progress towards the 2050 target. Five year budget periods are less prone to short term emissions volatility and annual variations arising from weather, fuel price movements, etc. They are also consistent with the current international agreements (i.e. the Kyoto compliance periods), EU ETS timeframes and European targets.

We are strongly opposed to annual CO₂ targets and believe they will create an environment in which Government and stakeholders focus on short-term reduction objectives rather than on long term drivers that will deliver a low carbon economy. A short-term, reactive approach will create investor uncertainty and potentially increase the costs of mitigation.

Q 10. How many years in advance should emissions budget periods be set in order to provide sufficient time to develop infrastructure?

Many assets will have lives of 25-60 years and may take up to 10 years to develop. We believe that visibility of five, five year budget periods giving 25 years visibility is necessary. Investment decisions in many low carbon technologies being considered today will not be implemented or operational until 2015 at the earliest and their commercial viability will be influenced by the carbon market for at least 15 to 20 years after that. As such consideration should be given to extending statutory targets out to five budget periods. Should the Scottish Government consider this inappropriate, EDF Energy would expect the Scottish budget periods to be aligned with the three five year periods outlined for the UK.

However, EDF Energy recognises that setting statutory targets for 25 years may carry political risk for the Scottish Government. This risk could be offset if the Government had the ability to review proposed targets provided that any revisions did not undermine then existing investments and did not undermine investors' confidence to invest in low carbon technologies and processes.

Q 11. What should be the limit (in terms of absolute quantity or as a percentage of the budget period) on the amount of emissions which the Government can borrow from a following budget period?

We support the use of limited borrowing. Limited borrowing protects against short-term fluctuations and volatility in emissions, e.g. arising from a cold winter, fuel prices, in particular where the volatility occurs in the final year of a five year budget period. EDF Energy would encourage the Scottish Government to consider the UK Government's approach, supported by EDF Energy, which derives the 1% borrowing limit from the impact of a 1 in 20 cold winter on emissions.

Q 12. Should the Bill include an interim point target? If so, what year (or years) should it be for (2020, 2025, 2030, etc.)? How should the level be chosen?

Ideally EDF Energy would prefer a 2025 interim target in order to be consistent with the UK proposals. However, we believe that interim targets (i.e. 2020, 2030) are not important so long as the Government has a legal duty to comply with its emissions budgets and stay within the limits imposed by them.

Supporting Measures

EDF Energy recognises that it is important for Scotland to develop targets that reflect the countries political ambition and to achieve the greatest possible level of emissions reduction at least cost. However, the policies and measures affecting Scottish direct emissions are greatly influenced by EU and UK policy and measures, therefore:

- it is necessary to factor into the Scottish climate change targets the implied emission reductions resulting from the EU ETS (taking into account complementarity provisions). This can be achieved through a process of “net carbon accounting” whereby the implied emissions reductions from allowance purchases are counted towards the Scottish reduction target.
- emissions that are influenced by policies and measures outside Scotland (i.e. non-energy intensive organisations, domestic consumption) should be taken into account in the Scottish Climate Change Bill i.e. evidence that over/underperforming UK measures (renewables and energy efficiency) are responsible for a percentage decrease/increase in Scottish emissions should be taken into consideration when setting the Scottish budgets.

However, the reserve powers of the Scottish Government, especially in relation to housing, planning, transport and agriculture, will have a significant indirect influence on greenhouse gas emissions.

EDF Energy believes that the complexity of political relationships between regional, national and devolved administrations, and their respective law making powers results in the need for the Scottish Government to ensure balanced policy implementation. Unless the subtle interaction between these policies and measures is appreciated there is a high probability that targets will not be very meaningful.

EDF Energy
April 2008