



OFFICIAL REPORT
AITHISG OIFIGEIL

Economy, Energy and Fair Work Committee

Tuesday 29 September 2020

Session 5



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ECONOMY, ENERGY AND FAIR WORK COMMITTEE
30th Meeting 2020, Session 5

CONVENER

*Gordon Lindhurst (Lothian) (Con)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Maurice Golden (West Scotland) (Con)

*Rhoda Grant (Highlands and Islands) (Lab)

*Alison Harris (Central Scotland) (Con)

*Richard Lyle (Uddingston and Bellshill) (SNP)

Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Marcus Hunt (SGN Commercial Services)

James Lambert (Competition and Markets Authority)

Donald MacBrayne (Scottish Water Horizons)

John Mason (Glasgow Shettleston) (SNP) (Committee Substitute)

Charles Wood (Energy UK)

CLERK TO THE COMMITTEE

Alison Walker

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Economy, Energy and Fair Work Committee

Tuesday 29 September 2020

[The Convener opened the meeting at 09:32]

Decision on Taking Business in Private

The Convener (Gordon Lindhurst): Good morning, and welcome to the 30th meeting in 2020 of the Economy, Energy and Fair Work Committee. We have received apologies from Gordon MacDonald, and I welcome in his place John Mason, who is attending as a committee substitute.

Agenda item 1 is a decision on whether to take items 4 to 7 in private. Do we agree to take those items in private?

As no members object, we agree to take items 4 to 7 in private.

Heat Networks (Scotland) Bill: Stage 1

09:33

The Convener: Agenda item 2 is an evidence session on the Heat Networks (Scotland) Bill. We should have on screen a number of witnesses who are joining us remotely. They are: James Lambert, who is a director at the Competition and Markets Authority; Charles Wood, who is the head of new energy services and heat at Energy UK; Marcus Hunt, who is the head of commercial services and investments at SGN Commercial Services; and Donald MacBrayne, who is a business development manager at Scottish Water Horizons.

The witnesses should indicate when they want to come in by raising their hand or typing in the chat box. Either I or one of the clerks will see that, and I will bring you in. Once the question has been asked, you should wait a few seconds for broadcasting staff to turn on your microphone, so that we do not miss your first words.

Are the witnesses satisfied with the definitions in the bill, or do they need to be tweaked or altered? For example, section 1 defines a “heat network” as “a district heat network, or ... a communal heating system.”

What are your views on that?

James Lambert (Competition and Markets Authority): We are happy with the definitions in the bill. It is important to retain flexibility on, for example, future technology, and the bill does that.

The Convener: Thank you.

I am sorry—I am having a slight difficulty with the technology. If witnesses simply raise their hand, that will make it easier for me to bring them in. Would anyone else like to say something on that question?

Charles Wood (Energy UK): Good morning. That definition in the bill is adequate. It gives enough leeway for future technologies and for the wide range of technologies that can be used for heat networks. We are broadly happy with that. As secondary legislation is put in place, there may be a need for more clarity.

The Convener: What about the definition of “thermal energy”? What will that mean in practice? How will it work?

Donald MacBrayne (Scottish Water Horizons): It may be useful to include ambient loops in the definition and the scope of the bill. That is an emerging area of heat networks, for distributing ambient temperatures that can then be boosted in individual buildings. It may not be adequately covered at the moment.

The Convener: Do you consider that the definitions are flexible enough to work with future changes—for example, in technology? Are you all satisfied with the definitions?

Marcus Hunt (SGN Commercial Services): We are very happy with the definitions in the bill. However, it is important to make sure that the language is consistent, and that communal heating systems, which could mean other types of heating system, are not in effect considered to be heat networks. The distinction needs to be clear, so that there is no confusion for consumers. Other than that, we are happy that the bill gives flexibility for the future.

The Convener: Does anyone consider that there needs to be provision for consultation on future changes? I will take the silence as a no.

We move to questions from the deputy convener, Willie Coffey, who joins us remotely.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I want to get a flavour of what the witnesses think about licensing. I will roll together a few questions, to see whether I can get a little discussion going.

Do you support the proposals for licensing? What could we do to ensure that consumers are adequately protected on, for example, pricing, quality, and the maintenance of standards? Should prior experience be a factor in the granting of a licence? Should the licence standard conditions rest with the licensing authority, as is proposed?

In addition, heat regulation is devolved to the Scottish Parliament. Who should regulate the industry? Should the Office of Gas and Electricity Markets provide that service for us, or should we set up our own regulator?

A little discussion about that would be very helpful. I would like to hear first from Marcus Hunt and Donald MacBrayne, and then from James Lambert and Charles Wood.

Marcus Hunt: We support a licensing regime for heat networks. We need to ensure that any regime is proportionate and balances consumer interests with investor interests, so that heat networks deliver for all stakeholders.

On the question of who should govern the licensing regime, there might be some benefits to giving that role to an authority such as Ofgem, which has experience of regulating energy networks and is well placed to regulate heat networks.

The licence conditions must be prescriptive enough to give consumers protection in the heat networks space; they must also give investors protection to ensure that, given that this is an

emerging market, the networks can be successful and deliver as we hope that they will do.

Donald MacBrayne: We see some real benefits to the licensing regime in driving consistency. Such a regime is important not only for consumer protection, but in providing consistency in how networks are developed. Bringing in industry standards would be useful. For example, different standards for something as simple as water quality in a district heat network are being promoted by designers at the moment. That can lead to delays and debate while the standards that are to be adopted in the network are worked through. Getting that clarity is important for designers, developers and contractors.

It is important that standards also support the longevity of the networks that are developed. We want to have long-term assets in the ground that will stand the test of time, so specifications and standards are really important in that regard.

Willie Coffey: I see that Marcus Hunt wants to come back in.

Marcus Hunt: I want to add one point, to build on Donald MacBrayne's comments. One of the questions was whether previous experience should be taken into account when deciding who is provided with a licence. It is important to have competent and credible entities delivering heat networks, to ensure that consumers and other authorities have confidence. However, given that the heat networks market is an emerging one that has the potential to grow and to gain interest from new entrants, we should be careful that the bar is not set too high on previous experience, so that licences are not, in effect, restricted to a small number of players with a proven track record.

Although there is a need to ensure competence, there is also a need to ensure that the regime does not restrict new entrants but recognises skills, such as those found in other utility networks, that might be quite similar but not specific to those for heat networks.

James Lambert: We very much welcome the proposal on licensing, which is an important way of ensuring that the requirements on getting proper persons to operate the heat network are met and of ensuring technical standards so that consumers are protected from poorly designed and potentially expensive heat networks.

09:45

On who the regulator should be, we noted in our 2018 report that a number of stakeholders identified Ofgem as being potentially suitable on the basis that it has experience in the electricity and gas sectors, it operates across Great Britain and it has an office and staff based in Scotland. I

think that similar views were echoed in the working group convened by the Scottish Government last year. However, we recognise that heat regulation is devolved to the Scottish Government, so we did not make any firm recommendations about who the regulator should be. There are some areas of inconsistency across Great Britain but, having spoken to officials, we are pleased to hear that dialogue is taking place between United Kingdom Government and Scottish Government officials and that progress in reaching an agreement is being made.

Charles Wood: Thank you for the questions—they are very good ones. There are many points to cover. On licensing, I agree with everybody who has already spoken. It is critical that this part of the industry be brought up to the same standards that the rest of the industry is being held to, and taking this step forward on licensing seems sensible.

On whether experience should factor into applications, my answer is no. The quality of the application should be the factor. Those more experienced companies will, of course, be able to submit a higher-quality application, but if a new competitor comes into the market, they should be able to compete on a level playing field with the other providers.

On how to establish consumer protections, we should put some of that in the licensing arrangements and make those a requirement. However, it is likely at this point that the energy ombudsman—Ombudsman Services—would step into that consumer protection role. We need to make sure that there is co-ordination across the Scottish and UK Governments on the approach and that the consumer protections are at least held to the same standards, regardless of who eventually takes control of them.

Finally, on who the regulator should be, I agree that it is likely to be Ofgem, which we consider to be the sensible approach—again, that is about keeping things consistent. Indeed, this is about having consistency in all things.

I am, effectively, just echoing everybody else's points.

Willie Coffey: Thank you, everybody, for that. On the point about the regulator, I have looked at the UK Government's draft market framework for heat networks, which came out around the start of the year. It recognises the different responsibilities in Scotland and the rest of the UK. For example, in Scotland, we control building regulations, but the UK controls fuel standards and fuel specifications and so on, so there is a distinction to be made. If we go for a single regulator such as Ofgem, does that imply that we must have a single set of regulations, or can we have different regulations to reflect the needs and aspirations of both Scotland

and the rest of the UK and enshrine that in whatever arrangement we reach?

Marcus Hunt: I will build on the point that James Lambert and Charles Wood made about consistency. My experience of how the water retail market for non-household customers evolved in Scotland and England is that having a level of consistency in how a licence is applied for, evaluated and provided, and in the conditions that accompany that licence and the obligations that it places on providers, is quite important.

For any new entrant who is looking to get into the market, different licensing regimes create challenges. In effect, that creates cost and a potential administrative burden that are eventually passed on to consumers. Therefore, from a new entrant's perspective, consistency—where possible—across licensing regimes in Scotland and England would help a lot. It helps if they do not have to navigate different regimes, which can cause complexity.

Donald MacBrayne: Building on Marcus Hunt's point about competition in the water sector, it is important to think about the potential failure of operators and the supplier of last resort in the heat sector. In the water sector, competition evolved effectively from city incumbents, which created a backstop and meant that a supplier of last resort was already in place. That is not necessarily the situation for heat networks, which is an evolving new market. It will be interesting to see how the supplier of last resort is dealt with as the bill evolves.

Colin Beattie (Midlothian North and Musselburgh) (SNP): I will explore some issues around the consenting process. Fuel poverty is included as a proposed assessment criterion for consents in the policy memorandum. It does not appear in the bill, although decarbonisation does. Does the consenting process take fuel poverty and decarbonisation into account adequately?

Are there any volunteers for that question? Does the silence mean that our witnesses are happy with the consenting process, or that they have no opinion on it?

Charles Wood: We think that the bill's coverage is adequate at this stage. The process is recognised and fuel poverty and carbon reductions are included. However, as secondary legislation progresses and we get into the detail and some of the transitory requirements for moving from the current market to the new one, the bill will have to get into further detail about how fuel poverty is addressed. That will be critical to making sure that consumers' needs are addressed first and that reductions in carbon are included as a consumer need.

Colin Beattie: Should fuel poverty appear in the bill along with decarbonisation?

Marcus Hunt: To reinforce what Charles Wood has said, the bill at this stage is quite high level. It talks about fuel poverty, but the next evolution or stage of the bill needs to bring that out in more detail to ensure that consumers who are suffering from fuel poverty are adequately catered for and that the bill takes decarbonisation into account. However, that needs to be balanced to allow enough flexibility for different solutions and heat networks that will help to move the bill forward, rather than being too prescriptive about a single technology. The bill caters for some of that at this stage, but the secondary legislation and the detail that needs to sit under it still needs to be established so that we can have more visibility on how it is catered for.

Colin Beattie: We talked briefly about future technologies. Should the benchmark for carbon emission comparisons be current or future technologies? Is there a danger in using one or the other?

Does the silence mean that I am asking all the difficult questions?

Donald MacBrayne: The word “flexibility” was used earlier, and it is key that we have that ability. Sitting here today, we cannot know what is going to happen in 10, 15 or 20 years’ time as a result of innovation, so it is important that the system that is put in place is flexible enough to take account of whatever happens and enable us to bring those future technologies into play.

Linking back to the previous questions, there will be a balance between lowest carbon and lowest cost, which will be relevant when you consider fuel poverty. That will always be a tricky one.

Colin Beattie: Is there any way to future proof the consenting process to take into account emerging technologies and fuels? What kind of flexibility could be built into the process? How do we do that? Clearly, it cannot just be wide open.

Charles Wood: To a degree, there must be some openness in the terminologies and we must ensure that the approach is technology neutral. However, within that, you can set requirements for fuel poverty, decarbonisation, the amount of allowable emissions made by a heat instalment and so on. You can restrict what you do to the question of what you want the outputs to be rather than what you want the input to be. There are ways to get around that, using wide wording and allowing flexibility to make adjustments to the legislation at a later date.

Colin Beattie: [*Inaudible.*—changes in terminology and so forth be in the bill at this point.

Marcus Hunt: We believe that heat networks provide a good insurance policy for decarbonisation. Although the heat network might originally have been constructed using a specific technology, you can change that technology over time without disrupting the heat network that has been established. If a new technology emerges over the course of time, you can change the underlying fuel source that powers the heat network but keep the heat network in place.

There is a risk in trying to future proof the process too much at this stage, in that it might not allow heat networks to emerge as quickly and efficiently as they could. There is a trade-off, and it is difficult to strike that balance. However, it would be a shame if future proofing the system prohibited things happening.

Rhoda Grant (Highlands and Islands) (Lab): Is deemed consent the right way forward or do we need more checks and balances in the system?

Donald MacBrayne: From a developer’s point of view, deemed consent is helpful because it provides certainty. However, there might need to be some checks and balances in there—perhaps some sort of appeals process.

Rhoda Grant: Does anyone else have any thoughts, especially about the role of local authorities and communities? If communities might be impacted by the heat network, should they have a role in determining the application?

Charles Wood: That is an important question. The decarbonisation of heat across the United Kingdom, and particularly across Scotland, is reliant on getting consumers to understand what is happening, and to understand that the existing method of heat might be high carbon so they should be moving to another source. We need to engage with consumers and explain the options to them, what the process would be and how they would operate their heating within a heat network. We need to give them an understanding of the issues and some ability to consent and agree to the process. If we do not do that, there will be a higher number of complaints and the issues that consumers will have with the networks might be more problematic, which might cause further headaches for MSPs, local authorities and developers.

It is vital to get ahead of that by engaging at the local level, getting local authorities involved and using their reach into the community to state what is going to happen and how people can input into the process. Getting people on board, getting them to understand and to make the most of the new assets is critical—they must have a say and some sort of input to the process.

10:00

Rhoda Grant: Are there any other comments on that? Should communities be convinced of the need for heat networks? Should it be a grassroots move from communities that want to engage to build heat networks rather than something that is imposed on them by somebody outwith the community?

Charles Wood: Yes, there should be a degree of that. When we are decarbonising things such as public buildings or spaces using heat networks, it makes a lot more sense for a larger developer to come in, but when something is at community level, getting the community involved, giving them understanding and getting their consent is helpful in pushing forward the agenda. Consumers understand climate change and decarbonisation and want to contribute to that as well as to efficiency and low cost for their neighbours. They are looking forward to being able to do that. However, the statistics also show that about 60 per cent of consumers do not even recognise that their boiler is an emitting technology. Getting the understanding and getting consumers engaged is the first step, regardless of whether a community wants to progress something themselves and apply their own approach to the heat network or they want to go to a third party and say "Our area would like a heat network, please apply here". As long as there is leeway and flexibility in the bill between taking the two approaches, and there is a consenting approach overall, that is fine. There should be a mix of solutions.

Marcus Hunt: I will add to something that Charles Wood said and reflect on the level of engagement that consumers sometimes have with energy. In order to promote heat networks there needs to be more consumer engagement and communication about heat networks and their benefits at a macro level. That would mean that when such schemes emerge in a local authority or a particular region, people would have some understanding of them and could distinguish between a heat network and other types of energy sources. At the moment, as Charles Wood said, people do not even realise that their boiler is carbon emitting, so it is quite a big step to move towards a situation in which they understand heat networks in their totality. Some form of consumer engagement and a communication programme would support the bill and help the wider public to understand the benefits of heat networks.

James Lambert: Our report identified several issues with the lack of consumer engagement with heat networks that could lead to poor outcomes for consumers, for example, when people move on to a heat network, if they do not understand the terms and conditions or there are issues around transparency and billing and so on. Any initiatives

to help consumers engage with heat networks would be positive.

The Convener: We now have questions from Maurice Golden, who joins us remotely.

Maurice Golden (West Scotland) (Con): I am interested in the transfer scheme, particularly in relation to Scottish Water's evidence about the potential omission from the bill with respect to how existing heat networks will be treated, and what happens if they fail to get a licence. How would they be transferred and how would any valuation be done? Donald MacBrayne, will you clarify your concerns, and suggest how the bill could be improved?

Donald MacBrayne: The point is about the need for further detail, as has been said about previous questions. There are schemes in place already, and if we are talking about areas becoming heat network zones, those zones could have existing projects in them. How would the process of allocating one consent deal with existing schemes? It is really a request for more detail around that, so that we know how our existing schemes that are operational would be dealt with.

Maurice Golden: Do any of the other panellists have comments on how the transfer schemes would best operate and how that should be reflected in the bill? James Lambert, from a consumer protection angle, how would the transfer provisions affect existing customers, and how could that be addressed?

James Lambert: Heat networks are natural monopolies, and we note with interest the transfer requirements as a way of ensuring that, after a period of time, there can be competition for heat networks. It is important to ensure, as the bill already seeks to, that incumbency advantages are removed in the process, so that there can be a genuine, fresh competition at the right point in time. In turn, that gives a bidder the opportunity to come up with proposals that include pricing and service quality for customers, and could allow innovation to be injected into the bidding process.

Maurice Golden: [*Inaudible.*]*—*the market at the moment, how likely is competition for any transfer of assets to occur?

James Lambert: It is difficult to say at this stage. We did not specifically gather evidence on transfers in our market study, because it pre-dated the bill. From the evidence that we gathered, there is certainly interest in the heat network sector across the UK. However, we heard consistently from potential investors about the issue of scale, and whether there would be sufficient demand and schemes of sufficient scale to justify bringing the larger investors into the market place. There is already some commentary on the bill about the

use of zoning to provide a baseload and network connections that would lead to an assured base for a bigger investor.

Maurice Golden: If a UK-wide market developed in which consumers and the operators face the same costs and prices, as opposed to two markets—one in Scotland and one in the rest of the UK—would there be a trade-off between the price that the consumer receives and the attractiveness of investment? If there are two markets, how likely is it that they would function in exactly the same way, such that any trade-off would be avoided?

James Lambert: That is a good question. It is quite difficult to answer, because there is such heterogeneity among heat networks. Based on our engagement with and visits to various heat networks across England and Wales, and across Scotland, there is such a wide variety in their cost bases and their prices that it is quite difficult to imagine separate Scottish and rest-of-UK markets. In many ways, it is more of a continuum of schemes, albeit that there are some specific factors in Scotland, such as in some policies and the higher prevalence of smaller schemes, for example.

We saw a close link between the cost of networks and the prices paid by customers. If there is efficiency in the process, particularly at the design and build stage—for example, in scale or attractiveness to investors, such as would draw competing bids for a network—that could, in turn, help consumers through lower prices, as long as consumers were able to benefit from the design.

Charles Wood: The current level of competition is not going to be reflective of the level of competition that we will see once the legislation is in place and we have got into the further detail. That is one of the reasons why we enjoy the fact that the bill has been introduced: it gives that confidence to investors. It will reduce the risk of investment and increase the number of people who want to participate in this area.

Heat networks are not a new technology. They are not a brand new thing that everybody is trying to wrap their heads around. They have been in place across the UK for a long time. The market is fit for moving forward and expanding greatly, and the bill will help with that.

The level of competition in the early years might be slow and it might involve a lower number than you would like. However, the fact that the legislation will be in place means that competition will improve and grow as the market develops.

You should certainly not hesitate about Scotland moving faster than the rest of the UK. For Scotland to be moving at pace is an absolute boon to the rest of the market. Given Scotland's specific

decarbonisation targets, it is necessary to move forward at such a pace. The rest of the market can catch up, but Scotland should absolutely move forward. It will increase competition and deliver some of those benefits to consumers very quickly.

Marcus Hunt: Although this does not specifically address Maurice Golden's question, one thing that helps to attract investors is clarity about the pipeline and long-term opportunities. One of the challenges of heat networks is having visibility of that pipeline, and an understanding of the projects and when they are likely to come to market. If we were to establish that, some of those other issues might well fall away and that might be more important.

The Convener: I will follow up on some of those questions.

James Lambert, if heat networks come in, how exactly is that going to assist the consumer, when it comes to differences in competitiveness, or, to word it better, value for money? As things are currently set up, individual customers can simply change provider—in theory at least, once they have gone through the various difficulties that may arise in doing that. How are the proposals going to provide individual consumers with an ability to ensure the best quality of delivery? I have put it that way—best quality and effective service—rather than in terms of simply the lowest price.

James Lambert: If the tender is well constructed, that will enable a range of factors to be taken into account in the bidding process. That would include price, but also, for example, service quality and technical expertise. In some other markets, all those factors in the scoring system count towards selecting the winning bidder. It will be important not only to ensure the initial price, but also that consumers are able to benefit over the life of the contract, for example, through the terms of the contract and the quality insurance that will be in place.

10:15

The Convener: The individual consumer is not going to have flexibility with regard to the provision of services. How does the individual consumer ensure that they get value for money? I am not saying that this proposed system cannot provide that, but how does that happen? Surely it is more inflexible than it would be if individual consumers were simply deciding.

James Lambert: The role for individual consumers is a challenge for the heat networks sector because, once someone is on a heat network, contracts are long and it is difficult, if not impossible, to switch providers, either because they are in a contract or they have to continue to

pay a standing charge even if they were to install their own electric heating, for example.

To empower the consumer as much as possible, we recommended that there be transparency prior to moving into a heat network and that, once someone is on a heat network, billing standing charges should be transparent, so that consumers will have the ability to go to an ombudsman to raise complaints or challenge their bills.

The Convener: I am not sure that going to an ombudsman will make a difference to the service that the consumer receives.

I should also say that, if you feel that you have not had the opportunity to cover matters properly during this session or if you want to go into specific detail that we do not have time for, you are welcome to write to the committee.

I invite Marcus Hunt to come in, and then we will move on to questions from John Mason.

Marcus Hunt: How you ensure that consumer interests are protected when we are effectively creating natural monopolies, as James Lambert has said, and how you ensure that consumers are not disadvantaged without some level of safeguard or economic regulation are issues that we felt were not addressed as fully in the bill, although it could be too early to address all of that at this stage.

We would like to see regulation in an economic sense evolving over time that is proportionate to the size and the scale of the market but gives consumers protection and ensures that those natural monopolies are not exploited.

The Convener: How would that be achieved in the bill? That might be something that people want to think about and perhaps write to the committee on—it would be useful for the committee to have some idea about that.

Marcus Hunt: Yes. It feels as though it is another consideration that is not specifically addressed in the bill and may be outside the jurisdiction that the bill was intended to cover. We can pick up the point after today.

John Mason (Glasgow Shettleston) (SNP): I am interested in Mr Wood's point that we should be encouraging pace and that we want to move the bill forward.

In some of the evidence that the committee has received, it has been suggested that there should be more of an obligation to connect new buildings to heat networks both in the public and non-domestic sectors. What are your thoughts about whether there should be more of a compulsion or an obligation to do so?

Charles Wood: When it comes to new build, in particular, there should certainly be an obligation at least to consider the lowest-carbon option. If that is not a heat network, it should be another technology that can reduce the building's carbon emissions further than a heat network could do.

That brings us back to the point about community and local engagement. There is a need to co-ordinate local industry and attract new industries to come into an area, because if, for example, an area has a data-processing centre or heavy industrial processes such as steel manufacture, the excess heat that comes from them can be used. If we can attract such organisations to join the local community and use otherwise wasted heat to help to heat homes and public buildings, we create a stronger sense of a community decarbonisation effort and the ability to move on to local area energy planning.

Scotland has been leading in that regard, in its approach to local heat and energy efficiency strategies and the ability to start examining how local areas' assets can be connected and brought together in a co-ordinated decarbonisation plan. Heat networks are critical in that regard, and if new buildings can be obliged to be either net zero at the point of the build or connected to a heat network and contributing to decarbonisation of the local area, that would be a positive development.

John Mason: Who should drive that? Should it be the local authority, the community, the business or whoever is coming in, or the development company? For instance, the Commonwealth games village is in my constituency, and it was very much agreed that a heat network would be the way forward for that project. Who should drive that approach to new projects?

Charles Wood: That is a difficult question. It depends on the local circumstances. In circumstances such as yours, where there is an existing heat network, it makes sense for the council to regard that as the option and to push any new connecting party to connect to the heat network.

However, there is a significant role for the Scottish Government in ensuring consistency at a higher level, so that people are told, "This is the approach that should be taken; and if you want to connect in an area that is right next to a heat network, full consideration should be given to connecting to that network." It should not be just a matter of people saying, "Oh, there's a heat network here, but we're not going to connect, because we don't feel like it." People should have to do the cost benefit analysis and consider the impact of their approach on decarbonisation, fuel poverty and their ability to contribute to the local economy. Those issues should be factored into the decision about whether to connect. There

should be a consistent approach across the Scottish Government, but there is a role for local authorities in enforcing and pushing the approach.

John Mason: Mr MacBrayne, did you want to come in?

Donald MacBrayne: Yes. On the point about large local authority anchor loads, I think that there is merit in compulsion to connect, because big loads help projects to stack up and become viable. Once there is, in effect, a heat island, it is possible to build out from that and connect more and more properties. Having that baseload from local authority-type buildings, where there is consistent, long-term demand, is the sort of thing that makes investment and projects stack up—it is then possible to grow further.

John Mason: If the other witnesses do not want to come in on that point, I will move on.

SGN suggested in its submission that heat network zone permits should last in perpetuity. That is interesting; it sounds like not just a monopoly but a monopoly for ever. I would have thought that the capital costs would be recovered after 15 or 25 years. Surely, after that point, the permit should not last in perpetuity. Can you comment further on that?

Marcus Hunt: We suggested that the licence should effectively last in perpetuity, in the same way as other regulated licences. That view is really about protecting the interests of consumers in the event that a licence was removed. If some form of supplier-of-last-resort regime or another framework to protect consumers was established, it would perhaps be less of an issue, but the position is not entirely clear in the bill. If the licence of a heat network licensee was revoked for some reason, perhaps for non-performance on another network, what would happen to consumers? That was the angle that we were coming from on that specific point.

In addition, there is a question around what the right timeframe would be. For investment to be certain and established, a scheme needs to be time bound to an appropriate point at which, as you say, the investment would be recovered. Different schemes will have different profiles, and therefore a one-size-fits-all approach would not work. That is where we were coming from in our submission.

John Mason: Presumably, something such as the pipework to convey the water around would have a fairly predictable lifespan—perhaps 30 or 50 years, or something like that; I do not know. The generation capacity might be more unpredictable and more short term.

Although you argue that granting a licence in perpetuity would protect consumers, there is

surely a risk that consumers would be exploited if somebody had a permit forever.

Marcus Hunt: We would expect them to have it forever as long as they were delivering on, and not in breach of, their licence conditions and contract. We were commenting in that context, rather than simply talking about awarding a licence regardless of how people performed against the conditions.

John Mason: I do not know whether any of the other witnesses want to come in on that point.

James Lambert: As I mentioned, we saw advantages in having a tendering process set with a certain point in time in order to allow fresh competition to take place and to allow innovation.

My understanding from the policy memorandum is that a supplier-of-last-resort process would be introduced. I am not close to the detail of that, but with regard to the point that Marcus Hunt made, it is obviously important, from a consumer protection perspective, to have that sort of process in place.

Charles Wood: To go back to John Mason's point, if a contract is to run for a certain period of time, the organisation that first set up the heat network should be allowed to get a reasonable return on the established network. However, once that tipping point has been reached, there should be a competitive process. Competition is a positive measure across energy markets; it reduces costs and encourages companies to have better customer service and create efficiencies. It would make a lot of sense to have a tender process after the initial investment is recovered and some reasonable revenue is brought back into the company, so I absolutely agree with John Mason's point in that regard.

10:30

John Mason: My final point is for Scottish Water. I understand that you have a joint situation with the council in Stirling, with Scottish Water producing the heat and the council distributing it. You raised a point about whether that would be a complication for permits and licences. Can you expand on what you think the problem might be?

Donald MacBrayne: It is around the definition of a network and whether the network includes the energy centre aspect. There are a few linking points on this. The energy centre that we have developed at the waste water treatment works uses heat from the waste water—it is a circular economy, low carbon-type approach—and that heat goes out into the network that the council owns. What does the licence cover, in terms of that definition? Does it cover the two operators who are, effectively, within that one contract? The question is how the energy centre aspect would be handled in the next stage of the bill. Over time, as

the council's network grows—which it intends that it should—there could be other forms of heat from other generators coming into that same network, so it might not be only our energy centre that is supplying heat. How would the bill handle that situation?

Linking back to previous points about asset longevity, you are right that we would expect the network to last 50-plus years if it is properly looked after, taking into account some of the previous points around requirements for and specifications of things such as water quality within the network. However, the energy centre technology will last for a much shorter time, depending on what it is. Combined heat and power may last for 15 years, fuel cells 20 and heat pumps perhaps 20-plus years. There is a misalignment in terms of asset life. That is, however, good in relation to the other query that was raised, which was about future flexibility for innovation. Once the initial project has been created, the network will naturally look to the latest innovation as the energy centre technology comes to the end of its much shorter asset life. I hope that answers your question—it was a bit of a waffle.

John Mason: Do you think that the detail of situations such as yours in Stirling needs to be included in the bill or can it be left until further down the line and put into regulations?

Donald MacBrayne: It can be left until further down the line in regulations, as long as it is recognised that such situations currently exist within the market.

Alison Harris (Central Scotland) (Con): Following on from that line of questioning, how can the interests of the consumer be best represented and enforced in projects with no single responsible person or body?

Charles Wood: The interests of the consumer need to be protected. I point to examples of how the existing energy sector has been taking care of consumers throughout the past year. Throughout the Covid pandemic, Energy UK has taken on a convener role in relation to all the pressure points and issues that the industry has encountered during the past six months. We have seen a lot of examples of companies making sure that their consumers are still connected, that they are able to top up their prepayment meters and that no one is going cold. We will continue to do that.

It is important that that approach is reflected in heat networks, so you are absolutely right to ask how consumers' needs are to be protected. It is important that organisations such as the CMA—James Lambert may want to come in on this point—and Citizens Advice Scotland step into that role, give advice and provide understanding to consumers. It is also important that consumers on

a heat network understand who they should call if something goes wrong. They should have a direct route of recourse if they are unhappy or uncomfortable with anything. It is important to get those processes right from the get-go and the bill is a useful tool for making sure that that is in place for licensees.

Donald MacBrayne: I will apply Alison Harris's query to the example that I gave of Stirling Council. We are contractually bound to the council, which is contractually bound to its end users, and obligations around price and service are bound within that. It is not a mish-mash of different people; there is a clear line of sight to the end consumer.

James Lambert: We consider that a sector regulator will play a key role in protecting heat network customers. In advance of regulation coming in, we recommended that networks get on the front foot and adopt the best standards that they can. For example, the Heat Trust has guidance on consumer protection.

Charles Wood was right to raise the point about consumers having information about heat networks, knowing who to call and recognising the role of organisations such as Citizens Advice Scotland when seeking advice if there are concerns about the operation of the heat network.

Alison Harris: Are the key criteria set out in section 39 adequate for the designation of all possible and/or relevant anchor buildings? What do you think about that?

James Lambert: Is your question directed to me?

The Convener: It is for anyone who is able to comment on section 39. James, do you want to come in on that?

James Lambert: No. I am afraid that I do not have a strong view on that—it is not an area that was reflected in our report or in our subsequent engagement with the Scottish Government.

Alison Harris: Okay. I will move on to my final question. Given that part 5 of the bill requires building assessment reports to be carried out only on publicly owned buildings, is there a risk that community-owned buildings and other potential anchor buildings that

"require considerable and consistent use of thermal energy"

will be missed? Does no one want to come in on that?

The Convener: Does no one wish to comment? I will take that silence to mean that all four of the witnesses have no comment.

We will move on to questions from Richard Lyle.

Richard Lyle (Uddingston and Bellshill) (SNP): Like Alison Harris's last question, my questions are on part 5 of the bill, which covers building assessment reports. It places a duty on public sector building owners to assess the viability of connecting their building to a heat network. I will ask each panel member a question, which I hope that they will answer.

Does Marcus Hunt have an opinion on why the duty does not apply to all non-domestic buildings, and whether it should be extended?

Marcus Hunt: My connection is breaking up a bit and I am not sure that I caught that. Apologies, Richard.

Richard Lyle: That is okay. Do you have an opinion on why the duty does not apply to all non-domestic buildings, and whether it should be extended?

Marcus Hunt: No, I do not have an opinion on that, I am afraid.

Richard Lyle: Okay. My next question is for Donald MacBrayne. How could the information used by local authorities in designating heat network zones be improved to ensure that the most suitable areas are designated?

Donald MacBrayne: That is a good question.

Richard Lyle: I am looking for a good answer.

Donald MacBrayne: Obviously, the LHEES work is on-going, which will help with that. The industry uses the helpful heat maps that the Scottish Government has created. There is resource potential in reusing waste water for heat recovery, so there is potential to overlap those kinds of asset layers to make sure that systems and potential projects have considered all the opportunities and solutions for providing low-cost low-carbon district heat networks. It is a case of making sure that all the relevant aspects—whether from Scottish Water or whoever—have been taken account of in the LHEES work that is on-going.

Richard Lyle: My next question is for Charles Wood. Is it likely that that process will rely on existing data from energy performance certificates—EPCs—and if so, what are the strengths and weaknesses in that approach?

Charles Wood: There is a degree to which the process will rely on EPCs and the existing data. The EPC is the most commonly available bit of data that we use to check out the housing stock and the capabilities and weaknesses of the local building stock, but it is not the be-all and end-all—it can be improved on. EPCs do not necessarily take into account everything that could be factored into heat, for example, but it is a useful basis on which to begin the process.

Additional issues will have to be considered. What other local information can be gathered from networks, such as the gas or electricity networks? What capacity is available? What would be the best solution in terms of the lowest-cost option that requires the least investment in new network capacity? What workforce is available locally? Are the right number of installers, engineers and construction workers ready to take part in the process? Is the required manufacturing available locally? Is there a local supply chain that could be bolstered by a heat network? What industry is there locally that could get engaged in the process and could be offering waste heat or, as Donald MacBrayne said, waste water that could be used in heating?

A lot of different factors come into that. EPCs are part of it, but they are not the whole picture. New technologies should be explored as well—those that give a better understanding of where the energy efficiency issues may be across the housing stock and that potentially provide more granular data on where interventions should be targeted. That should certainly be considered as the approach to local deployment and local heat zones is progressed.

Richard Lyle: My next question is to James Lambert, who is, I notice, a director of the Competition and Markets Authority. You know as well as I do—better than I do—that heating is a cost to people and that sometimes there is a choice between heating or eating. We have to try to get a better cost for heating. How should information for consumers be presented to ensure that they fully understand the cost and implication of living in a property with a heat network? Is there a risk that that might not be adequately conveyed by property agents and landlords?

James Lambert: We see a risk for somebody who moves into a property, either through an estate agent or a landlord, and there being insufficient information about the heat network. That view is partly based on consumer survey work and partly on our survey.

Most of the feedback that we had was that the energy performance certificates alone were not sufficient. That was partly because the information that they include is limited—on heat networks in particular, there is insufficient information on the on-going cost of the network, especially on standing charges and operation and maintenance costs.

Once someone has moved into a property, there are sometimes issues with there being no contract, the frequency of billing and the way in which bills are presented, particularly with regard to the breakdown between usage and standing charges. Therefore, the recommendations are for improved transparency prior to people moving into

a property—which would require engagement across Government—and for more regular and detailed bills for consumers, with a role for a regulator in overseeing that.

Richard Lyle: Thank you. That is all from me, convener.

The Convener: Finally, we have questions from Andy Wightman.

10:45

Andy Wightman (Lothian) (Green): I want to return to Rhoda Grant's question about local engagement. Under the consenting regime set out in part 2 of the bill, consent would be granted by the Scottish ministers. Local authorities—as local authorities or in their capacity as planning authorities—have no role in the system, which contrasts strongly with, for example, Denmark, where the 98 municipalities are responsible for approving projects, within a national framework, of course. Is it right to exclude local government from any role in the consenting process?

Charles Wood: To answer your question directly, no, it is not right to exclude local authorities, which typically have a better understanding of local attributes, including housing stock, the public buildings that they have access to and their plans for decarbonisation.

Various local authorities across the UK have come up with their own net zero targets, plans and intentions. If we look just at Scotland, we have the examples of Dundee's initiative on electric vehicle charging and Fife's heat network. There are ways in which local authorities can progress the agenda much faster. Therefore, including them is critical to ensuring that the local community is on board.

However, we understand the desire to allow ministers to have that overarching co-ordination role, to bring together local authorities, industry and other stakeholders who may want to feed into the process. That will help to reduce the amount of divergence between local authorities, and we hope that it will enable better co-ordination across local authority borders, to ensure that, if a heat network crosses borders, or if there are complementary schemes nearby, it is possible to co-ordinate across those, rather than taking completely different approaches to planning from one area to another.

Donald MacBrayne: Charles Wood answered that question really well. Opportunities for cross-boundary co-ordination and collaboration should not be missed, so I thoroughly agree with his answer.

Andy Wightman: Part 6 of the bill provides licence holders with powers for compulsory acquisition of land and wayleave rights, with

Scottish ministers' consent. Broadly speaking, as I understand it, utility companies require those powers, so there is no real dispute about their being in the bill as a matter of principle. Are the powers appropriately framed? In particular, SGN's written submission states:

“alternative methods should be fully explored before compulsory action is taken.”

I do not dispute that, but is there something behind that statement that Marcus Hunt wishes to elaborate on?

Scottish Water Horizons states that compulsory purchase and wayleave rights could have a

“deleterious effect on Scottish Water's ability to develop or operate assets”.

I ask Donald MacBrayne to expand on what that “deleterious effect” might be.

Perhaps Marcus Hunt could start.

Marcus Hunt: Our point is that compulsory purchase could be viewed as a fairly extreme measure, and it could effectively disenfranchise consumers if it was involved in a heat network scheme, which could be detrimental to the overall scheme. If compulsory powers were to be part of the bill, that could have an impact on consumer engagement, which could undermine the objectives that the bill seeks to achieve. That is our angle on that.

I do not think that we had given any consideration as to what specific alternatives might be available.

Andy Wightman: Before I move on to Donald MacBrayne, I want to come back on that point, Marcus. SGN has access to compulsory purchase powers, does it not?

Marcus Hunt: That is a good question, but it is probably one for the regulated business, rather than for SGN Commercial Services. The regulated business will have powers for certain rights relating to its network. I honestly do not know whether that extends to compulsory purchase, although I know that the business has wayleaves and rights over land where it has its assets. That is part of the regulated business; it is not something that I am so familiar with in the non-regulated business, I am afraid. I can confer with my colleagues and come back to you on that.

Andy Wightman: Donald MacBrayne, you are not part of the regulated business either, but perhaps you can say more about your comment on the “deleterious effect”.

Donald MacBrayne: You are correct that I am not part of the regulated business, either. If I may, I will first return to the matter of compulsory purchase powers. The regulated business currently has compulsory purchase powers, but

they are very much viewed as the last resort, as well as being a necessary tool if there is a scheme that is in the public good and there is no other way to overcome some barriers. Some clear guiding principles have been established on consultation and engagement and all the various steps before reaching that stage.

On the “deleterious effect”, I will come back to you in writing, if I may, with more detail on that, given that it is the regulated business that has responded on that point. However, my understanding is that we want to be clear that there is no order of precedence under which heat networks could potentially impact on our regulated business. If we need to do something in a particular area, the heat network could take precedence over that. We need to ensure that the relevant utilities are aligned. As I say, that is not my part of the business, so I would like to come back to you on that in writing.

Andy Wightman: That is fair enough. I assume that all the utilities—electricity, gas and water—face the same issue, that each of the others may be operating mostly underground and may potentially impact on the others, and that established protocols are in place to manage that. If that is not the case, and if Scottish Water has particular concerns in relation to water—it might, as heat networks will involve the conveyance of hot water—it would be useful if you could return to that point, too.

Scottish Water also says in its written evidence that some

“thought should be given on how to secure decommissioning costs.”

Is there evidence from existing utilities on how that process is managed, or is that not really relevant? We are still living with a Victorian sewerage system, for example, and decommissioning has not become an issue there.

Donald MacBrayne: Again, I will jump back slightly. We have recently come across a particular aspect to do with different utilities in close proximity to one another. A concern, which we are working our way through, is the potential for overheating where a pipe is close to a water main; there could be heat transfer into the water main, which we would not necessarily find useful. My colleagues might provide information on that when I get back to the committee in writing; it is the subject of a project that we have been working on.

With regard to decommissioning, it is really about the licence. If it comes to the point at which the definition of “heat network” includes energy centres, for example—we talked earlier about the definition—it will be important to think about decommissioning before projects start, rather than

have someone lock the door and walk away, which does not feel right to me.

We need a debate about what will happen when a project comes to the end of its life. It might be that the system will be decommissioned; the incumbent might be allowed to continue with a new contract, in a competitive environment; or a new contractor might come into place to take over the project. It is about considering, right at the outset, what will happen when a licence or contract comes to its end.

Andy Wightman: Can you say what the situation is with the Stirling project in which you are involved? Was that question considered at the outset? Who is responsible for decommissioning?

Donald MacBrayne: That one is slightly different, because it is on a Scottish Water asset. Let me use another example: in Campbeltown, we are doing an energy centre that recovers heat from waste water next to a local authority asset, and some of the infrastructure is on the local authority asset. We have built in different options. From memory, I think that, within 12 months of the conclusion of the 20-year contract, the two parties must come together and agree whether the asset will transfer to the local authority, whether we will continue for a given time beyond the negotiated contract, or whether we will decommission. If the parties do not agree one of the first two options, the obligation will be on Horizons to decommission the energy centre and deal with the associated costs.

Andy Wightman: Does the decommissioning involve decommissioning the network—the pipes underground—or does that remain in place?

Donald MacBrayne: It involves that, yes.

Andy Wightman: Does anyone else want to comment on the points that I asked about?

Charles Wood: It is useful to note that this is an issue with electric vehicle charging points, too. For some time, wayleaves and compulsion have been pushed for with EV chargers, and getting rapid chargers in has been problematic, because there is no power of compulsion.

The word “compulsion” has the same negative connotations as “mandating” has. It is important to get people on side and to go through the entire process and all the options first; it is equally important that, where there could be a positive net benefit from a heat network, people are able to push forward with the project. It is difficult. We do not envy the politicians who have to get the balance right, which is critical.

Andy Wightman: For clarification, the electric vehicle charging network is not a regulated network, which distinguishes it from what we are talking about here.

Charles Wood: Sorry, yes. If heat networks are regulated, there will be greater capacity to move forward with them than there is in relation to EV charging.

Andy Wightman: Yes. That is an important point. In a regulated industry, it is easier to have a backstop power.

The Convener: I thank the witnesses for joining us. The committee clerks might write to you to summarise the points on which we want to invite further comment in writing.

European Union (Withdrawal) Act 2018

Public Procurement (Amendment etc) (EU Exit) Regulations 2020

11:00

The Convener: We move on to agenda item 3. The committee has been asked to consider a notification from the Scottish Government on the Public Procurement (Amendment etc) (EU Exit) Regulations 2020. Most of the regulations apply to England and Wales and not to Scotland; the parts of the instrument that are relevant to Scotland are those where the UK Government is seeking to retain direct European Union legislation with effect across the whole of the United Kingdom in relation to minor matters. The Scottish ministers will make a separate amending instrument in respect of the equivalent Scottish regulations.

Is the committee content for the issues to be dealt with by statutory instrument laid at Westminster?

Members *indicated agreement.*

The Convener: I will write to the Cabinet Secretary for Finance to notify her of the committee's decision.

11:01

Meeting continued in private until 12:54.

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