

E-COPY of Letter from:

Scottish Sustainable Energy Foundation

Independent Energy Information for Scotland's Future

David Hunt
Senior Manager – Electricity Transmission Policy
Ofgem
9 Millbank
LONDON
SW1P 3GE:

19 July 2007

Dear Mr Hunt

Income Adjusting Event for the Beuly Denny Public Inquiry.

This is the Scottish Sustainable Energy Foundations (SSEF) response to your letter dated 25th June 2007 requesting views on the above.

SSEF is an independent, non-commercial and charitable body whose aims include the provision of independent energy information to enable the right decisions to be made now to preserve, if not enhance, standards of living in Scotland.

SSEF is primarily interested in sustainability, and although it is not SSEF policy to become involved in campaigns for or against individual technologies or projects, we are minded to respond to your call for views on this issue.

This is because we are generally concerned that moves towards sustainability – at present largely through initiatives in renewable energy – are becoming more difficult as a previously enthusiastic public mood is becoming less supportive, due to issues arising out of policy and implementation.

We are concerned that, in this case, due to the national profile and the publicity surrounding the Beuly – Denny Inquiry, there is potential for further disengagement if the application from SHETL is not seen to be openly and correctly handled.

We would like to make two points. In doing so, SSEF are not here commenting on the validity of the arguments referred to below, but we do feel that Ofgem should be aware of them.

2nd Floor, Prospect House, 5 Thistle Street, EDINBURGH EH2 1DF
Tel 0131 220 6650
Email: admin@ssef.org.uk

Firstly, Jane Morgan of the Scottish Executive's Energy, Enterprise and Tourism Directorate stated:

“the Scottish Ministers concur with the view as expressed in the Reporter's letter of 22 December 2006 that the Beuly-Denny proposal is not required by any legislative, regulatory or administrative provision” and

“the Scottish Ministers consider there is no statutory compulsion on the Applicants to proceed with this proposal, if they decided not to do so”
(Scottish Executive News Release 29 June 2006)

It can be argued that, if nothing has occurred to compel the applicants to proceed with this proposal, then an Event cannot have occurred which requires a change to the expenditure provisions of the licence.

While SHETL may feel obliged to attend, in some force, the Public Inquiry to defend their proposal is an Event justifying Income Adjustment, it would appear the Ministers and the Reporters believe that SHETL could decide not to pursue the proposal and that such a course is in fact open to them. The choice not to avoid the additional expenditure by this means appears to rest with SHETL.

From this, it would seem that – were Ofgem to accept that an Income Adjusting Event had occurred – they would be taking a view opposed to that of the Ministers and the Reporters.

Secondly, in his letter regarding Connecting the Islands dated 5 June 2007, Robert Hull states that:

“Ofgem's primary duty is to protect the interests of consumers” (Background: final Paragraph).

This being so, it might be difficult for Ofgem to justify using money derived from consumers / taxpayers to meet a commercial company's costs that Minister's and the Reporters believe could be avoided, were the company minded to do so.

A further consideration might be that a precedent could be created which other developers faced with avoidable costs in other situations could exploit.

SSEF's concern here is that acceding to SHETLs request could possibly leave the regulatory framework open to criticism on the grounds of contradictions within the decision making structure, and on the mis-direction of significant amounts of public money.

This in our view would not assist in boosting public confidence or smoothing the path towards a more sustainable energy system, and might conceivably give rise to new hurdles.

SSEF would be reluctant to see this happen, and would hope that Ofgem will consider carefully whether our concerns are well founded.

Please let me know if you have any questions.

Yours sincerely

.....
Alan Bailey
Managing Director