

Title: Revision of fees for s.37 Electricity Act 1989 applications. IA No: DECC0101 Lead department or agency:DECC Other departments or agencies:	Impact Assessment (IA)				
	Date: 07/08/2012				
	Stage: Consultation				
	Source of intervention: Domestic				
	Type of measure: Secondary legislation				
Contact for enquiries: Nick Cooper DCPR 0300 068 5687					

Summary: Intervention and Options

RPC: AMBER

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB in 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£1.1m	0	£0.13	No	N/A

What is the problem under consideration? Why is government intervention necessary?

Fees payable to DECC for development consent applications for electric lines above ground have not been increased since 1990 and remain at £50. This does not accord with Government policy for “full cost recovery”.

As the fees are established through a Statutory Instrument, any revisions may also be made only by a Statutory Instrument.

What are the policy objectives and the intended effects?

The aim is to bring fees payable DECC into line with Government Policy. The intended effect is to ensure that the fees payable are approximate to the costs to DECC of processing applications.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The policy options considered were:

- (i) Do nothing. This would mean that fees payable for s.37 development consent applications continue to fail to comply with Government policy on fees.
- (ii) Set a fixed rate fee for all applications. This would recover DECC’s costs, but subsidise complex applications at the expense of simple ones.
- (iii) Set a sliding category of servicefees depending on the nominal voltage of electric lines, with separate fixed fees for Environmental Impact Assessment screening and for EIA development. This would more nearly approximate the fees to DECC costs of processing applications. This is the preferred option.

It is not possible to revise the fees other than by regulation.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 03 / 2018

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small Yes	Medium Yes	Large Yes
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 2

Description: Fixed rate fee

FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.32	High: 0.37	Best Estimate: 0.35

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	£0.038m	£0.32m
High	0	£0.044m	£0.37m
Best Estimate		£0.041	£0.35m

Description and scale of key monetised costs by 'main affected groups'

The main affected groups will be Distribution Network Operators and Transmission Network Operators. Their fee costs could increase from £50 per application to £200 per application.

Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£0.038m	£0.32m
High	0	£0.044m	£0.37m
Best Estimate	0	£0.041	£0.35m

Description and scale of key monetised benefits by 'main affected groups'

The beneficiary would be the Government, as processing costs for applications under s.37 of the Electricity Act 1989 would be recovered from applicants.

Other key non-monetised benefits by 'main affected groups'

None

Key assumptions/sensitivities/risks

Discount rate (%)

In calculating costs it is assumed that the threshold for submissions under the Planning Act 2008 is amended. The proposed amendment would move between 5 and 20 applications annually from the Planning Act to s.37 of the Electricity Act.

The fee level would be set at the rate that would allow recovery from the lower estimate of annual applications.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0.35	No	N/A
Benefits: 0		
Net: 0.35		

Summary: Analysis & Evidence

Policy Option 3

Description: Category of service fees

FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.7	High: 1.6	Best Estimate: 1.1

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	£0.08m	£0.7m
High	0	£0.19m	£1.6m
Best Estimate	0	£0.09m	£1.1m

Description and scale of key monetised costs by 'main affected groups'

The main affected groups will be Distribution Network Operators and Transmission Network Operators. Their fee costs could increase from £50 per application to a range between £200 and £20,000 per application, depending on the category of service the proposed development consent.

Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£0.08m	£0.7m
High	0	£0.19m	£1.6m
Best Estimate	0	£0.09m	£1.1m

Description and scale of key monetised benefits by 'main affected groups'

The beneficiary would be the Government, as processing costs for applications under s.37 of the Electricity Act 1989 would be recovered from applicants.

Other key non-monetised benefits by 'main affected groups'

None

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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In calculating costs it is assumed that the threshold for submissions under the Planning Act 2008 is amended. The proposed amendment would move between 5 and 20 applications annually from the Planning Act to s.37 of the Electricity Act.

The fee level would be set at the rate that would allow recovery from the lower estimate of annual applications.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0.09	No	N/A
Benefits: 0		
Net: 0.09		

Introduction

1. The Department of Energy and Climate Change levies a fee of £50 for each application under Section 37 of the Electricity Act 1989 for consent for installation, or keeping installed, an electricity line in England and Wales. This fee is set in by the Electricity (Applications for Consent) Regulations 1990 (Statutory Instrument 1990/455) regulation 11.
2. Electricity lines are installed and maintained by National Grid (which is responsible for the electricity transmission network in England and Wales) and by other electricity suppliers who operate distribution networks. The latter group of companies are termed “Distribution Network Operators” (DNOs).
3. Examining applications for consent made under s.37 costs DECC approximately £100,000 annually. There may be up to 270 applications each year, although most are for minor works, e.g. diversions or maintenance on existing lines.
4. The fee has not been revised since its inception and is now merely a token payment. By contrast, the Scottish Executive significantly revised its scale of fees for similar work in 2006, on a sliding scale from £150 for lines that are not “EIA development” (that is required to undertake an environmental impact assessment by the EU Directive on environment and major projects) and under 15km to £50,000 for lines that are EIA development and over 100km in length. Similarly, the Planning Act regime has statutory application and examination fees that may total more than £100,000 for applications for consent for electric lines.
5. The Government therefore proposes to revise the level of fees for applications for consent under s.37 to better reflect the cost to the Government of examining the applications.

Rationale

6. The Treasury is quite clear on the need to move to full-cost recovery where services are provided by Government:

“It is government policy to charge for many publicly provided goods and services. This approach helps allocate use of goods or services in a rational way because it prevents waste through excessive or badly targeted consumption. It also makes for easier comparisons with the private sector, promotes competition and helps develop markets. The norm is to charge at full cost.¹”

Fees were set by the The Electricity (Applications for Consent) Regulations 1990 (S.I.1990/455). Because the fees were set at a very low level and have not been increased, they do not comply with Government policy as stated above. The level of fees payable to DECC for s.37 applications for consent manifestly does not implement this policy. Increasing financial constraints on Government mean that it is undesirable to continue to operate on what is tantamount to a “free” service, since in the scale of project budgets, the consent application fee is nugatory.

¹ “Managing Public Money” Chapter 6, p41: .HMT 2007

Options

7. Any action would require implementation through a Statutory Instrument under the Electricity Act 1989 Schedule 8 1(3) amending the 1990 regulations. As the fees derive from the Electricity Act implementing regulations, it would not be possible to amend them through guidelines or other voluntary measures.

8. Government has identified three options for possible action:

- (1) Leave fees at £50 for each and every application (“do nothing”);
- (2) Increase the fee for each and every application to a level that would generate annual revenues approximating to the cost of considering applications (“fixed fee”);
- (3) Revise the fee structure to set a category of service fees for applications on a scale based on application type and their likely complexity that would generate annual revenues approximating to the cost of considering applications (“category of service fees”).

Argument

9. As set out above, because the fee for applications has not been revised since 1990 and has in effect always been a nominal sum, it does not comply with Government policy on full-cost recovery. Nor does it make any significant contribution to the cost to the taxpayer of examining applications. The Government believes, therefore, that “do nothing” is not a reasonable or viable option.

10. Increasing fees by a fixed amount would be simple to implement. However the majority of applications are for minor, uncontroversial works and are examined within a few months, whereas the minority of complex cases may require significant resources to examine. A fixed fee for all applications would, therefore, be inequitable because the many would be paying for resources to examine the few. This option, while viable, is considered to be less than optimal.

11. Setting fees according to the scale of an application is the most equitable way of recovering the costs of examining applications and would meet Government’s policy requirements. This is considered to be the best option.

12. The proposals do not set an “index-linked” automatic increase in fees. Because the total amount expected to be raised from fees is relatively small and the range for estimated applications annually is relatively broad, it is expected that the financial return from any putative increase would be insignificant compared with the potential variation in income. Further, an automatic fees increase would require advice to the developers annually and more detailed financial management by DECC officials that would minimise the value of any potential increase. Lastly, DECC is, like other Government departments, seeking to cut overall resource costs and we do not anticipate that the total cost of determining applications for consents will rise significantly in the near future. We therefore consider that given the particular circumstances of this proposal, it would be disproportionate and not cost-effective to impose annual inflation increases to these fees.

Cost Analysis

13. The costs to DECC of appraising applications for development consent for electric lines under s.37 of the Electricity Act 1989, as at October 2011, are set out below. It is not expected that the cost will rise significantly before 2015 at the earliest, owing to Government pay restraints and other cost-reduction measures.

14. Based on historic data of applications to DECC over the past five years, it is estimated that there would be between 250 and 290 applications annually. In 2010, there were 249 applications, but the Government is consulting on proposals to amend thresholds for submission of applications under the Planning Act 2008², which could add up to a further 15 applications.

Table 1: DECC Costs

Total staff costs for OHL consents team	£000s
SCSPB1	5.6
G6 legal	9.9
G7	37.8
SEO (Environmental Analyst)	10.3
HEO	42.4
AO	48.0
Total	154.0

15. These costs are fixed and would apply to Government expenditure whichever option is selected.

16. There are 9 Distribution Network Operators (DNOs) and 1 Transmission Network Operator (TNO) in the UK, who are responsible for all development consent applications for electric lines above ground in England and Wales. They are the parties that would be directly affected by any revision in fees. It is also likely that their customers might be indirectly affected, as higher costs could be passed on.

Option 1 “do nothing”:

17. The current fee is £50 per application, regardless of the size or complexity of the project. Based on latest data, it is estimated that DECC will receive between 250 and 290 applications annually. In 2010 there were 249 applications to DECC and 9 to the IPC (which it is proposed should be also be considered under s.37.) Therefore the fees charged at present are estimated at between £12,500 and £14,500 annually, against costs of £97,700 annually. There would be no additional cost imposed on business.

² The consultation on Planning Act thresholds is published at <http://www.decc.gov.uk/>

18. Compared with fees charged for similar projects under the Electricity Act 1989 in Scotland³, the current fee level represents a effective subsidy for applications in England and Wales of between £100 and £49,950, depending on the length of the proposed electricity line.

19. Although these hidden subsidies do not distort the market because the TNO and DNOs have statutory obligations to provide customers with connections, the perception of widely differing costs may influence timing of investment decisions and potential location of new electricity generation projects. Further, continuance of the fees in England and Wales at their current level would be contrary to Government policy.

Option 2 “fixed fee full-cost recovery”.

20. The table below shows the level of fees that should be charged to ensure that the development consents applications process is cost-neutral to DECC.

Table 2: Costs and Fixed fees – 2011, upper and lower estimates.

Cost per application	2011	Proposed
actual applications	£540.28	£540
250 applications	£615.92	£600
290 applications	£530.96	£525

21. It is not possible to estimate how many individual applications each DNO or the TNO might submit, although any 275kV and 400kV application transferred to s.37 from the Planning Act would be submitted by the sole TNO. It is estimated that these could be between 6 and 15 annually. The remaining applications (i.e. between 235 and 284) could be assumed to be distributed equally amongst 9 DNOs and the TNO, averaging between 23.5 and 28.4 applications annually each.

22. However to avoid any cross-subsidies, the fixed fee should be set at a rate that would not exceed the lowest cost of examining an individual application. As shown in Table 2 below, this would mean a fixed fee for all applications of £200.

23. It is estimated, therefore, that each DNO would have additional fee costs of between £10,500 and £12,000 annually. The TNO would have additional costs of between £13,500 and £16,000 annually.

Option 3 “category of service fees”

24. Setting a scale for different types of application according to complexity may be done in several ways. The fees payable for applications under the Planning Act 2008 are structured around fixed amounts for submission of an application, determination of an application, scoping, and fees for certain specified permissions to seek information or access third party land in preparation of an application. To

³ Fees are set by Scottish S.I. The Electricity (Applications for Consent) Amendment (Scotland) Regulations 2006 (2006/18)

these fixed costs, variable examination fees are added, depending on the number of Commissioners examining an application and the number of days taken (with the 6 month statutory period) to examine the application. In broad terms, half the examination fee is charged on commencement of examination, the remainder at the end of the examination.

25. The Scottish Government has set fixed fees for specified categories of electric line, based on the length and whether it is an EIA Development project. This scale of fees has the merit that it is fixed, so developers can calculate what the total fee would be for any given project at the outset. This is not possible with the PINS scale of fees, which depends on a variable that will not be known at the outset (i.e. time taken to examine an application).

26. However, although the Scottish Government has assumed that any very lengthy line will be EIA Development and set their fees accordingly, the definition for EIA Development in the Directive is for lines of nominal capacity of 220kV and over and more than 15km in length. It is possible that lines of 132kV will *not* be EIA development even where they are more than 15km. Further, as 275kV and 400kV lines are transmission lines, it is likely that they will be longer (and therefore require more consideration of an application) than 132kV or less nominal capacity lines.

27. For these reasons, the Government considers that it would be preferable to use the nominal voltage of a line as the primary scale for application fees, with an additional fee for screening a potential application to see if it is EIA Development and a fee for EIA development projects. A further refinement is for the type of work, since works on existing lines of any voltage may be relatively short.

28. The table below sets out the different types of application received in 2011, together with the percentage of DECC resources used in considering them

Table 3: Application types -proportion of time taken and cost of examination

	132kV & below - all	275kV/400kV changes (<2km)	275kV/400kV new lines (<2km)	EIA Screening	EIA Development
% total staff time	60	24	15	1	[Included in 275kv/400kV applications]
No. of applications	276*	8*	1	1	5
Total Cost	£78.23	£33.80	£31.78	£0.42	-
Cost per application	£0.28	£4.22	£31.78	£0.42	-

Note: * includes some applications made to the IPC that would be made under s.37 if the Planning Act threshold is amended. If these applications are made to DECC, existing development consent resources will absorb the relatively small amount of additional work.

29. The tables below set out the proposed categories and the potential minimum and maximum costs to business. These tables show that if applications remain at the same level as the past year (which we expect), the total fees accruing to Government would be some £15,000 less than Government's expenditure on development consents for electric lines. For the purposes of comparison, the second following table shows estimates of potential upper and lower bounds to the number of applications. This shows that the range of cost-recovery would be between £20,000 less than full cost and £50,000 more.

Table 4: Proposed category of service fees (actual applications) (£000s)

		Actual 2011	Proposed	Total annual fees -actual applications
• 132kV	276	£0.2	£0.2	£55.2
275kV&400kV changes	8	£4.2	£4.0	£32.0
275kV&400kV new (NB: cost of EIA determination and EIA development separated out.)	1	£31.8	£20.0	£20.0
EIA Determination	1	£0.4	£0.4	£0.4
Additional fee for EIA Development	5	£1.9	£1.0	£5.0
Totals	-	-	-	£112.6

Table 5: Proposed category of service fees - Total costs to developers (£000s)

	Estimated applications - Lower bound	Estimated applications - Upper Bound	Total Fees – Lower	Total Fees – Upper	Median applications	Median Fees
• 132kV	240	270	£48.0	£54.0	255	£51.0
275kV&400kV changes	5	10	£20.0	£40.0	8	£30.0
275kV&400kV new	1	5	£20.0	£100.0	3	£60.0
EIA Determination	1	5	£0.4	£2.0	3	£1.2
Additional fee for EIA Development	1	5	£1.0	£5.0	3	£3.0
Total	248	295	£89.4	£201.0	271.5	£145.2

Equality Impact Assessment

30. The proposed revision of fees would apply to any legal or natural person who wishes to install or keep installed electric lines and needs to submit an application for

consent under s.37 of the Electricity Act. At present there are nine DNOs and one TNO to whom the revised fees would apply and are not expected to have an impact on the number of applications for s.37 consent. The revised fee levels would apply equally to all applicants. Fees apply only insofar as any individual or group of natural or legal persons wish to undertake the activity on which the fee is levied. The Government consider that, with regard to its duties under section 149 of the Equality Act 2010 in respect of people with certain protected characteristics identified in that Act, there is no effect on any group as a result of this proposal.

Specific Impact Tests

Competition assessment

31. There is no impact on competition from this proposal.

Small Firms' Impact Test / Micro businesses

32. There are no small firms that install or keep installed electric lines that require development consent under s.37. The proposed revision of fees will therefore have no impact on small firms directly. It is not considered likely that indirect impacts on customers of DNOs would create a disproportionate burden for smaller firms and micro businesses.

Legal Aid Impact Test

33. There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

34. This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

35. This proposal will not lead to increased carbon and other green house gas emissions, nor have a negative impact on the Environment.

Health Impact Assessment

36. There are no detrimental health impacts from this proposal.

Rural Proofing

37. There are no impacts on rural areas.

ANNEX: NET PRESENT VALUE TABLES

Table 6: Total Costs to developers of categories of service fees. (£000s)

Annualised NPV @3.5%	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Lower Bound	£89	£86	£83	£80	£78	£75	£72	£70	£67	£65	£766
Median	£145	£140	£135	£130	£126	£122	£117	£113	£109	£105	£1,243
Upper Bound	£201	£194	£187	£181	£174	£168	£162	£157	£151	£146	£1,721
Current Fee Lower Bound	£12	£12	£12	£11	£11	£10	£10	£10	£9	£9	£106
Current Fee Median	£14	£13	£13	£12	£12	£11	£11	£11	£10	£10	£116
Current Fee Upper Bound	£15	£14	£14	£13	£13	£12	£12	£11	£11	£11	£126

Table 6a Increase over current fee (£000s)

Variance on current fee £50	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Lower Bound	£77	£74	£72	£69	£67	£64	£62	£60	£58	£56	£659
Median	£132	£127	£123	£118	£114	£110	£106	£103	£99	£96	£1,127
Upper Bound	£186	£180	£173	£167	£162	£156	£150	£145	£140	£135	£1,595

ANNEX: NET PRESENT VALUE TABLES

Table 7: Total Costs to developers of fixed fees. (£000s)

Annualised NPV @3.5% - Fixed fee	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Lower Bound	£50	£48	£47	£45	£43	£42	£40	£39	£38	£36	£428
Upper Bound	£58	£56	£54	£52	£50	£49	£47	£45	£44	£42	£497
Mean	£54	£52	£50	£49	£47	£45	£44	£42	£41	£39	£462
Current Fee Lower Bound	£13	£12	£12	£11	£11	£10	£10	£10	£9	£9	£107
Current Fee Upper Bound	£15	£14	£14	£13	£13	£12	£12	£11	£11	£11	£124
Current Fee Mean	£14	£13	£13	£12	£12	£11	£11	£11	£10	£10	£116

Table 7a Increase over current fee (£000s)

Variance on current fee £50	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Lower Bound (250 applications)	£38	£36	£35	£34	£33	£31	£30	£29	£28	£27	£321
Upper Bound (290 Applications)	£44	£42	£41	£39	£38	£36	£35	£34	£33	£32	£373
Mean Applications	£41	£39	£38	£36	£35	£34	£33	£32	£30	£29	£347

ANNEX: NET PRESENT VALUE TABLES