



Department
of Energy &
Climate Change

DECC'S RESPONSE TO THE CONSULTATION ON COST RECOVERY FOR OIL AND GAS CONSENTS

**A Consultation held on further
cost recovery for oil and gas
drilling and production
consents issued by DECC's
Licensing Exploration and
Development Branch**

8th May 2013

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General Information

Purpose of this consultation

Consultation on the proposed introduction of cost recovery in respect of oil and gas and carbon storage licensing consents, and offshore Pipeline Works Authorisations

Issued: 8th May 2013

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Consultation Response reference: URN 13/D084

Quality assurance:

This consultation was carried out in accordance with the Government's Code of Practice on consultation, which can be found here:

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

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Executive Summary

The Department of Energy and Climate Change (DECC) held a consultation exercise seeking views on proposals to recover the costs of its services in issuing consents under Petroleum Production Licences; offshore Gas Storage Licence or Carbon Dioxide Storage Licences or for Pipeline Works Authorisations issued under Part III of the Petroleum Act 1998. The consultation closed for response on the 5th December 2012.

DECC received 15 contributions from:

Apache North Sea Limited

The Carbon Capture and Storage Association (CCSA)

Dana Petroleum

Dart Energy (Europe) Ltd

Egdon-Resources

EnQuest PLC

EOG Resources United Kingdom Limited

GDF

Idemitsu Petroleum UK Ltd

Oil and Gas UK

Premier Oil Plc

Shell U.K. Limited

TAQA Global

Total E&P UK

The United Kingdom Onshore Operators Group (UKOOG)

DECC has now considered these contributions and has summarised below the comments made under the consultation questions for which they were responding to.

Generally industry was supportive of DECC's proposals and understood the resource pressures it may face in future in view of the constrained public expenditure allocations.

A number of responders pointed out that the industry already pays significant sums in the form of licence rentals and that these rentals should be diverted, or uplifted, to cover LED expenses in administering its consenting regime. However this would not be consistent with Government accounting practice for the treatment of economic rents, as further explained below. The method proposed in the consultation exercise means that the administration costs are transparent and open to scrutiny and there is a clear link between the fee payer and the benefits received for the fee charged.

A number of other clarifications were sought and these have also been addressed in this response.

List of Questions raised in the Consultation

Consultation Question

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| 1. | Q1. Do you have any comments or suggestions on any of the charging areas and suggested charging approach set out above? |
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Consultation Question

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| 2. | Q2. Do you have any comments or suggestions on the invoicing approach set out above? |
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Consultation Question

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| 3. | Q3. Can you tell us what the administrative burden, in monetary terms, on your organisation you foresee in complying with the regime so the burden can be quantified more fully for the purposes of One In One Out?. |
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Consultation Question

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| 4. | Q4. Do you have any comments on the Impact Assessment provided at ANNEX A? |
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Consultation Question

- | | |
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| 5 | Q5. Do you have views on how LED could provide our services more efficiently and/or reduce our regulatory footprint to achieve this objective? |
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Q1: Do you have any comments or suggestions on any of the charging areas and suggested charging approach set out above?

1. A number of respondents wrote to say that they recognize the current challenge for Government associated with funding its services to the oil and gas industry and that it is fair that the user of the service pays rather than the cost being passed to the taxpayer. Though one responder wanted to point out that the proposals may have an effect to reduce activity when DECC should be encouraging exploration and development in the sector.

2. A number of responders pointed out that the industry already pays significant sums in the form of licence rentals and proposed that these rentals should be diverted to cover LED expenses in administering its consenting regime.

DECC's Response

3. *One of the intentions of licence rentals is to encourage the relinquishment of licensed acreage where there is no further intention to carry out exploration activities, or to encourage the surrender of the licence altogether where any production activities have ceased. Government accounting practice requires that licence rentals are scored as "economic rent".*

Economic rents arise where Government has ownership rights over land and other natural resources, and receives income in return for enabling exploitation of that asset. Revenue receipts of this type cannot be retained by individual Departments but must be surrendered to the Treasury as they represent the use of a national asset. The method proposed in the consultation exercise means that the administration costs are transparent and open to scrutiny and there is a clear link between the fee payer and the benefits received for the fee charged.

4. Two respondents wanted this regime to be accompanied with an agreed level of service on LED's part in the form of a Service Level Agreement and a refund be made if a level of service is not met. They also wanted and an annual review of how charging related to performance be published.

DECC's Response

5. *Many applications for authorisations made to the Department are not of a standard form, consisting for example of a series of communications of increasing definition over time. The Department does not believe that this approach is amenable to a binding Service Level Agreement which may act to constrain the dynamic evolution of proposals which is in the long run to the advantage of the applicant. However, it is appropriate that the Industry should be provided with a clear structure of timing and framework for discussion to help them schedule and resource their applications. This is already provided for many of the Department's activities in its guidance, which will be reviewed to ensure that it is fit for purpose*

under the new charging regime. It is proposed that there is an annual review with industry of the working of the regime with conclusions feeding into improved guidance and practice where necessary.

6. One respondent wanted to emphasise their view that the introduction of the new fees regime was particularly unfair on the unconventional gas licensees in view of the fact that by the very nature of their need to retain considerable licensed acreage, with a large number of horizontal wells, they would in effect be paying far more proportionally to the Exchequer for their licensed acreage compared to conventional oil and gas counter parts who are able to reduce their licensed acreage down to a more focused hydrocarbon reservoir.

DECC's Response

7. The proposals covered by this consultation address fees for specific services, not the licence rental regime. DECC has however indicated in the Gas Generation Strategy published in December that it will review the appropriateness of the current licensing arrangements for the development of unconventional gas resources.

8. One respondent believes that DECC should not seek to recover the CO2 storage permit costs from early CCS projects as these projects are supported by public funds. Cost recovery will effectively result in 'tax churn'. And that as DECC is unable to estimate what the costs will be for project developers, it adds another source of uncertainty to CCS project developers.

9. They did however acknowledge that in the future as the CCS industry matures it seems reasonable to expect that project developers should be subject to cost recovery.

10. This respondent also thought that the requirements under the CCS Directive for the European Commission (EC) to issue a non-binding opinion on the draft storage permit before it is issued could well be a lengthy process with multiple iterations. Whilst the CCS Directive notionally sets a three-month limit to this process the Dutch experience in securing the first Commission opinion suggests that it could be significantly longer. The correspondent would not expect the cost recovery to apply to the EC opinion stage of the Storage Permit approval process given the potentially large costs that could be accrued and the lack of transparency of this review process.

DECC's Response

11. To exempt CCS projects from these (or other) regulatory charges would detract from a principal objective of the CCS programme which is to establish the full economic cost of CCS throughout its lifecycle. Where the draft Storage Permit is being considered by the Commission for their non-binding opinion, and DECC's staff are not actively working on that Permit, then no daily rate will be applied to the fee calculation for that period of time.

Q2: Do you have any comments or suggestions on the invoicing approach set out above?

DECC time recording before calculating invoices

12. Two responders wanted assurance that DECC will accurately record the time consumed in progressing those type of consents for which a bespoke invoice will be raised e.g. Field Development Plans and Pipeline works Authorisations and that these should be auditable.

DECC's Response

13. *DECC is developing a time recording system that will be employed uniformly across these types of consents. These returns will be recorded on the appropriate consent file and will be available for both DECC internal or the National Audit Office for inspection.*

Transparent invoicing

14. Two respondents said that invoices must be transparent on the services provided by DECC and the breakdown of the charges being made.

DECC's Response

15. *Those types of consent for which a bespoke invoice will be raised (e.g. Field Development Plans and Pipeline Works Authorisations) will be issued with a clear reference as to the project it relates and a breakdown of the charge being made by stipulating the number of officers involved in the consent times the daily rate being applied.*

Disputes

16. Two respondents said that the project developer must also have the right to dispute the charge contained in the invoice.

DECC's Response

17. *DECC agrees. In the case where a charge is disputed the developer will be able to make representations. Those representations, and the time sheets used to determine the disputed charge, will be inspected by a unit within DECC that has a separate, line management hierarchy to that unit which has calculated the charge, and can reasonably state that they do not have an interest in the dispute decision falling in either parties favour.*

Payments delaying the processing of consents

18. Two respondents were concerned that the requirement to make payments might cause delay such as in the case of licence transfers, and that it is not clear if payment of an invoice for a consent to transfer is required before consent is given. This could slow down the process, which at the moment can be very quick.

DECC's Response

19. For those consents that are issued through the online oil portal, the payment methods of "World-Pay, CHAPS or BACS will be available to the applicant as preferred. With the exception of the World-pay (which takes payment before progressing through all stages of the process) the consent will not be held up pending the processing of payment, i.e. with BACS and CHAPS the consent can go through with payment being made after.

Unified invoicing

20. Many respondents raised the issue of multiple invoicing and wanted LED to replicate invoicing approach with their Offshore Environmental and Decommissioning Units counterparts in invoicing in advance annually with a consolidated invoice.

21. Two respondents pointed out that developers may need a number of approvals, for example, in a Field Development Plan or carbon dioxide Storage Permit (for a CCS project) application there could be an associated need for a drilling consent, Pipeline Works Authorisation, production consent, etc. The process of invoicing could be rolled together and therefore simplified.

DECC's Response

22. LED in progressing its proposals for a fees and charges regime has worked closely in line with HM Treasury guidance on fees and charges. EDU(LED/OED) as a whole issues consents that fall into two categories. Those that are renewals in nature and can be predicted in advance (such as Chemical Permits issued by our Environmental Group) or those that are reactive and cannot be predicted (such as Licence assignments or drilling consents or Field Development Plan submissions) issued by LED.

23. Where consents can be predicted and are of a known and reasonably standard resource input by OED staff, it is acceptable that an annual forward casting invoice be raised with an operator and issued for payment.

24. Where consents cannot be predicted (e.g. Drilling consents or Licence Assignments) and are in addition not a of a known resource input by EDU staff (e.g. Field Development Plans or Pipeline Works Authorisations) it is not permissible that an annual forward casting invoice be raised with an issued to an operator for payment.

25. LED must assess the resource input by its staff after the consents has been given and only then request payment (as will be the case for licence assignments

or drilling consents) or issue an invoice (as will be the case for Field Development Plans or Pipeline Works Authorisations).

26. In providing a payments facility through the oil and gas portal (for licence assignments, drilling consents and field consents) at the point of application, LED is building upon the positive experience seen for applications made in the 27th Licensing Round which likewise asked for payments at the time of the application being submitted.

27. One respondent suggested it would be important that the invoices covering charges for different activities were collated for each activity and that companies were invoiced on an annual basis. So for example, if they applied for 20 drilling consents in a year they would could be issued just one invoice at the end of the year that would cover the charges for all 20, rather than have to process 20 individual invoices. This they pointed out would minimise the administration burden on them.

DECC's Response

28. If an operator chooses to pay by the, CHAPS or BACS method when applying for the consent they will be presented with an online request for payment which can be printed off or viewed later through a reporting functionality. This reporting functionality will allow the operator to see all the request for payments that they have accumulated through the year. If that operator has informed us in advance that they would prefer to make a single payment towards the end of the Financial Year settling all its accumulated requests for payments in a single BACS or CHAPS transfer (listing all the "request for payment" references the transfer is paying for) then this will be acceptable to DECC.

Backup to payment methods

29. One respondent asked that in the event that the online system is unavailable for any considerable period, does DECC have any contingency invoicing plans in place?

DECC's Response

30. For those consents that are issued through the online oil portal, the payment methods of "World-Pay , CHAPS or BACS will be available to the applicant as preferred. The payment screen will be a component part of the oil portal process. If WorldPay (the only real time payment package) is off line for any reasons, then the applicant will have the choice of paying by CHAPS or BACS at a later point.

Q3: Can you tell us what the administrative burden, in monetary terms, on your organisation you foresee in complying with the regime so the burden can be quantified more fully for the purposes of One In One Out?.

31. One respondent wanted to see the burden reduced by adopting an alternative charging route to the one proposed.

32. One respondent wanted to see the Licence Rentals reduced to cover both the actual cost and the administrative burden and therefore achieve the objectives of "One In One Out".

33. One respondent said that the initial setup costs for online payment and changes to internal controls to accommodate this are unquantifiable without consulting the various banks. The ongoing cost post setup would be proportional to the number of transactions (processing of additional invoices) but unlikely to be considerable.

34. Another respondent said that from their perspective the additional administrative burden will be minimal above that already imposed on the industry by the licence fee and cost recovery DECCs Offshore Environmental Decommissioning Unit.

35. One respondent said that this regime could create additional administrative burden and asked that it be minimised to the greatest extent possible. The post-approval calculation of the proposed charges could result in disputes over the invoices that are issued to project developers. In this eventuality the dispute resolution process would lead to additional administrative burden.

DECC's Response

36. DECC is grateful for these comments. DECC confirms the intention to continue to provide an efficient service and minimise costs to users where ever it can. One method has been the possibility of settling an accumulation of Portal generated "Request for Payment" in one single BACs or CHAPs transfer (see Para 30).

Q4. Do you have any comments on the Impact Assessment provided at ANNEX A?

37. One respondent felt the cost projections to the industry by the introduction of the new regime was an under estimate and did not take into consideration the additional Field Development Plan addendums DECC could expect as a result of the 2012 Brown Field Allowance.

DECC's Response

38. DECC acknowledges that the 2012 Brown Field Allowance will have the result of increasing Field Development Plan addendums, especially in the shorter term but these are in many cases likely to have been approved before the introduction of the new fees regime. We have however made a revision to the IA projections to reflect some increases in these addendums beyond those already forecast.

39. One respondent noted that The Impact Assessment (IA) analysis has excluded carbon storage but the outcome is still used to justify these charges on carbon

storage licences. This was explained in the consultation document that it is too early to indicate the time required to approve a CO2 storage permit at this point in time. The responder suggested it would be worth waiting until some practical experience has been gained and the true costs to the industry can be better calculated.

DECC's Response

40. While DECC agree that it is unfortunate that more informed costing cannot be detailed in the consultation and Final Impact Assessment, delay in finalising the Impact Assessment (a necessary part of laying new Regulations) would mean that the new fees and charges regime could not be brought into force within the time table envisaged.

Q5. Do you have views on how LED could provide our services more efficiently and/or reduce our regulatory footprint to achieve this objective?

41. No responses to this question were made that suggested LED should contract or reduce its role in regulating the oil and gas, or the carbon storage industry. However three respondents to this question took the opportunity reinforce their earlier views in relation to the invoicing procedures dealt with further above in this response.

42. One respondent made a suggestion in relation to LED increased involvement in relation to offshore pipeline third party access issues. They stated that in their view DECC has a policy of not being involved in commercial issues, particularly with infrastructure issues. However, more involvement (even as a by-stander) could facilitate additional benefits to the UK in general, particularly efficient use of and access to infrastructure. Some additional supervision is required which could be funded equally by the parties involved. This would allow fields to be developed which would otherwise remain stranded. DECC's involvement would allow better planning to be carried out.

DECC's Response

43. This is outside the scope of the current consultation. The infrastructure access regime was recently amended to provide scope for a more positive role for the Secretary of State where that might be helpful. There does not appear to be any consensus within industry at the present time for further change in the direction suggested.

Consultation conclusion and next steps.

44. In view of the responses to the above consultation comments, it is now the Government's intention to lay the regulations to charge fees in respect of LED consents before Parliament with the intention that they should come into force in Mid June 2013.

45. Guidance in relation to the new charging regime will be made available on the DECC website at the same time.

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URN 13D/084