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Emailed to: **ecc@parliament.uk**

Dear Sarah Hartwell-Naguib,

NFLA SUBMISSION TO THE ENERGY & CLIMATE CHANGE SELECT COMMITTEE INQUIRY INTO THE UK GOVERNMENT DRAFT ENERGY BILL

I am writing to you to provide a formal submission to the Energy & Climate Change Select Committee from the UK and Ireland Nuclear Free Local Authorities Steering Committee (NFLA). The submission is in reference to the Select Committee's call for evidence on the UK Government's Draft Energy Bill and its proposed reform of the electricity market.

The NFLA is an organisation of local authorities from England, Scotland, Wales, Northern Ireland and the Republic of Ireland who raise legitimate concerns over the development of nuclear power, nuclear safety and radioactive waste management in the UK. The NFLA Terms of Reference notes its aim is the long-term phasing out of nuclear power in favour of an alternative energy policy consisting primarily of a wide renewable energy mix, microgeneration and a more concerted programme of energy efficiency. For more details on the NFLA consult its website http://www.nuclearpolicy.info.

This response has been developed for the NFLA by its Policy Advisor and arises out of a report initially commissioned by the media watchdog group 'Spinwatch'.* This submission though contains additional information from the original 'Spinwatch' report.

The NFLA understands that the secondary legislation that relates to this Bill may not be published by the Department of Energy and Climate Change (DECC) whilst the Select Committee is considering the Bill. The NFLA are extremely dissatisfied that DECC have not provided the secondary legislation with the draft Bill, given that such legislation would embody the crucial detail underpinning the rationale for the Bill.

The NFLA also understands that the Select Committee has been told by DECC that, if it is to influence the content of the actual Bill that will be introduced to Parliament in the autumn, it must publish its report by the summer. In practice this will mean the Select Committee must complete its inquiry and publish its report by 17 July – just five sitting weeks away. The Select Committee has written to the Secretary of State to express its dissatisfaction with the timescale. The NFLA completely supports the Select Committee's dissatisfaction on this matter. For such an important and complicated piece of legislation the NFLA is extremely concerned that this process is being rushed and could be sent for Parliamentary consideration without a due level of prior scrutiny. The NFLA plans to follow up this concern with a direct letter on such matters to the Energy Minister Charles Hendry.

The rest of this submission will consider some of the key elements of the electricity market reforms contained within the draft Energy Bill. The NFLA believe the main driver behind these proposed reforms is to assist the nuclear industry with unfair financial support equivalent to an effective public subsidy, either from the taxpayer or the electricity consumer. This will inevitably be to the detriment of the fast-growing and jobs-rich renewable energy sector.

1. “We Promise No Subsidies”

When the UK Coalition Agreement was signed between the Conservatives and Liberal Democrats in May 2010 the UK Government gave a firm and unequivocal commitment. It would promote the construction of new nuclear reactors provided they received “no public subsidy”.[i] The NFLA fundamentally disagree with the need for new nuclear reactors, but it was hopeful that this commitment would be kept to, given the greater need for the nascent renewable energy sector to receive financial support from the Government.

Just one week after the General Election, the new Secretary of State for Energy, Chris Huhne, told *The Today Programme* on BBC Radio 4 that he might oversee new reactor construction if power companies could do it without government subsidy. The key point, Huhne stressed, on which there was agreement within the coalition Government, is **there will be no public subsidy**. [ii]

However, many respected independent figures and the wider media were sceptical of this statement from the start. *The Sunday Times* said the government was planning to “*rig the carbon trading market”* in order to encourage the construction of new nuclear power stations. Peter Atherton, head of European utilities at Citigroup said this could increase electricity bills for households and businesses, and “*transfer risk from the nuclear developer to the electricity consumer”* and, in effect, subsidise nuclear power by the back door. [iii]

It was already clear when the Coalition Agreement was signed that “...*what the government and EDF believe constitutes a subsidy is very different to the usual definition”* according to Stephen Thomas, Professor of Energy Policy at Greenwich University. [iv] But, as the former Government energy advisor Tom Burke notes, “*it soon became clear that neutering the planning system, capping the cost of radioactive waste management, continuing to accept the bulk of the nuclear industry’s third-party liabilities and putting in a floor price for carbon would not be enough.”* [v]

Most recently *The Guardian* said in no uncertain terms: *“Ministers are planning to subsidise nuclear power through electricity bills – despite their promises not to.”* [vi]

In the NFLA’s view, the draft Energy Bill and the proposed reform of the wholesale electricity market highlights a number of mechanisms which it believes the UK Government will use to provide what will be an effective public subsidy to the nuclear industry. The rest of this submission explains its views further.

2. Electricity Market Reform

The UK Government’s Draft Energy Bill includes a commitment to Electricity Market Reforms (EMR). This is the most obvious way in which the Government is planning to subsidise new reactors. When the EMR plans were first announced *The Daily Telegraph* declared that:

“Years of lobbying by nuclear companies have finally paid off, as the Government ... reveal[s] plans to subsidise the price that they are paid for generating electricity.” [vii]

Writing in April 2012, the former Labour Environment Minister, Michael Meacher agreed: *“The Coalition is about to rig the market through its so-called Electricity Market Reform programme which is aimed to favour nuclear at the expense of every other alternative. It will absorb huge amounts of direct and indirect subsidy even though the government has repeatedly and solemnly intoned that there will be no public subsidy at all for the building of new nuclear.”*

Michael Meacher went on to talk about a triple subsidy, comprising a capacity payment, a carbon floor price, and a low carbon ‘contract for difference’.” [viii]

There are actually four main elements to the EMR proposed by the UK Government, which will raise the price of electricity so that nuclear power can make a profit whilst giving the illusion there is no public subsidy:

- a Feed-in Tariff with Contracts for Difference (CfD-FiTs);
- a Capacity Mechanism;

- a Carbon Floor Price (CFP);
- the Emissions Performance Standard.

The NFLA acknowledge that this issue is complicated and technical, but it is clear that behind the veil of such market reform there will be public subsidies. "*The Government wants nuclear power but cannot be seen to subsidise it, so it has had to set up this set of convoluted measures*", argues Catherine Mitchell, Professor of Energy Policy at Exeter University. [ix]

3. Feed-in Tariff with Contracts for Difference (CfD-FiTs)

A CfD-FiT is a long-term contract between an electricity generator and a '*contract counterparty*' which enables the generator to stabilise its revenues at a pre-agreed level (the strike price – set by the Government) for the duration of the contract. Under the CfD-FiT payments would flow from contract counterparty to the generator, and *vice versa*. So when the market price for electricity is below the strike price, payments would flow from the contract counterparty to the generator. When the market price is above the strike price, payment would flow from the generator to the contract counter party. [x]

The CfD-FiT provides a subsidy to new nuclear reactors in two ways:

- Firstly, as a recent independent analysis undertaken by David Toke, Senior Lecturer in Energy Policy at Birmingham University has calculated, the strike price for nuclear will be around 15p/kwh, which is a sum that is considerably in excess of what offshore wind-farm owners are currently being paid for their output. This is because new nuclear electricity will cost more than our existing generating capacity. There will almost certainly be no competitive bidding within the sector because there is only likely to be one supplier at present – EDF Energy.

  Citibank analyst Peter Atherton, using the latest figures for new EPR reactors reported in *The Times*[xi] calculated a "strike price" of about £166 per megawatt hour (£/MWh)[xii]. Current power prices are around £51/MWh, so such a high strike price would require a subsidy of £115/MWh. Using a handy little formula devised by Professor Steve Thomas, Professor of Energy Policy at Greenwich University, [C (capacity in gigawatts) x 1000 (converts gigawatts to megawatts) x S (difference between wholesale price and strike price in CfD) x 8760 (hours in a year) x 0.8 (plant availability)], Tom Burke says EDF's four proposed new nuclear reactors will cost the UK £155 billion over 30 years[xiii].

- Secondly, it transfers risk from generators to consumers both by providing long-term contracts above market rates and by ensuring that generators are compensated when the market price falls below the strike price. One consequence of this will be a reduction in the cost of capital for nuclear generators so a simple proxy for subsidy would be to compare the interest rate offered with a CfD to the one that would have been offered without a CfD. However, no company anywhere has seriously tried to finance a nuclear plant to operate unprotected in a competitive electricity market, probably because it is known such a plant would be unfinanceable.

So CFD-FiTs will virtually dispense with the free market in energy, replacing it with fixed long-term contracts, set as a result of auctions regulated by the government.

The UK Government published its proposals for the institutional framework for EMR in December 2011. It is proposing to ask the System Operator within National Grid to implement both the CfD-FiT (i.e. to act as the contract counterparty) and the Capacity Market. Discussions between Government and National Grid are underway with a view to agreeing precisely how the System Operator will fulfil this role and the exact nature of the relationship between Government and the System Operator.[xiv]

David Simpson, global head of mergers and acquisitions at KPMG, says he expects the UK government to offer 35-year deals which could be illegal state aid under European Union competition rules. [xv]

The issue of whether CfD-FiTs would amount to subsidy may be answered shortly if the Government follows through on its indications that it anticipates making a Phase II State Aid application for any interim CfD. This means the Government will ask the European Commission for permission to introduce the CfD-FiTs – in other words it believes they will count as a subsidy to nuclear, but may be a permitted exemption. [xvi]

The NFLA notes that Fiona Hall MEP, leader of the Liberal-Democrat group in the European Parliament, says she has no doubt the CfD-FiT is a subsidy. [xvii] She has called for Liberal Democrats to speak out against this public subsidy for nuclear energy, which she argues goes completely against the Coalition Government Agreement.

Fiona Hall says if a CfD-FiT goes ahead British consumers may find themselves subsidising nuclear technology for over 40 years, the average lifespan of a nuclear reactor, solely to keep in profit the one remaining interested power company, France's EDF. Billions of pounds will be diverted from the wind and marine energy sectors where the UK's natural advantage lies, hampering British industrial leadership in these sectors and risking a major loss of business opportunities and new jobs. [xviii]

The UK Government has not yet achieved European Commission assent to its proposed electricity market reforms, considered essential to enable new nuclear build. Minister of State for Energy Charles Hendry said in April 2012 that the government is *"engaging closely with the European Commission to ensure the electricity market reform proposals are consistent with the appropriate rules*." [xix]

The NFLA notes with concern a document, which was leaked to *The Guardian*, in which the UK Government lays out plans for the "contracts for difference" to the European Commission. The NFLA urges the Committee to investigate the content of this document further. It says: "*Our reforms will put in place a regulatory framework based on feed-in tariffs for all low-carbon technologies, which will allow younger technologies to mature so that in the near- to mid-term future they will be able to compete in the open market … in time, we expect that this regulatory framework will enable different low-carbon technologies to compete against each other on a level playing field for their appropriate role in the energy mix*." [xx]

This is the clearest evidence yet of government plans to subsidise nuclear power through the back door, by classifying it with renewables as "low-carbon power", despite repeated assurances that there would be no public subsidy.

The Guardian has also seen a presentation made by Scottish & Southern Energy (SSE) to MPs in March 2010, saying the plans contain "*hidden subsidies*", and will be open to challenge on legal grounds, and could "*mess up*" funding for renewables. SSE says the Government is bringing in the changes to "*hide the subsidy*" to avoid a furore. SSE notes the plans will have to "*clear state aid* [rules], *yet subsidy for a mature technology like nuclear is a likely stumbling block with the commission*". SSE said: "*We are concerned because if a nuclear subsidy messes up renewable support* [there will be] *massive uncertainty in our core market*." [xxi] The NFLA is aware that the Chief Executive of SSE, Ian Marchant, will be outlining such concerns to the Committee on the 12th June. These important concerns from one of the largest electricity utilities in the UK should be considered carefully by the Committee.

However, the Secretary of State for Energy and Climate Change, Ed Davey, argues that nuclear will not receive a higher price than low carbon technologies, so there will be no public subsidy of nuclear generation. [xxii] In other words because the CfD-FiT puts nuclear on the same footing as other forms of low-carbon energy, which will also receive a feed-in tariff, this is not a subsidy for nuclear power.

The Select Committee should note that the plans are likely to come under severe attack in the European Parliament, particularly from the European Parliament Green Group who are preparing to take legal action against the UK Government, arguing that the plans amount to state aid for nuclear. The CfD-FiTs will gradually replace existing subsidies for renewable energy which were designed to assist new technologies such as wind or marine energy in expanding their deployment and reducing costs through economies of scale, thereby helping them reach market maturity. Fiona Hall MEP has also argued that it is wrong to apply the same mechanism to nuclear technology which has existed for over 70 years but has never achieved any cost reductions. The NFLA sympathises with this view. [xxiii]

4. Carbon Floor Price

The NFLA believes the proposed carbon floor price in the Draft Energy Bill is being developed as a subsidy to the whole 'low-carbon' generating sector. The way it is designed means that existing low-carbon generating capacity will also receive payments. So EDF Energy will receive a windfall for its existing nuclear plant. This is a subsidy because existing nuclear plants were paid for by the UK taxpayer and sold at artificially low prices to EDF Energy who now operates them.

There is a dispute about the value of the windfall. The Treasury Secretary, Justine Greening MP, argues the benefits to the existing nuclear sector are likely to be: 'an average of £50 million per annum to 2030 due to higher wholesale electricity prices'. [xxiv] But according to calculations by WWF and Greenpeace, ***the proposed carbon price floor could result in windfall profits for existing nuclear generators of up to £3.43 billion between 2013 and 2026. This equates to £264 million per year.*** [xxv]

The proposed Carbon Floor Price was contained in the Finance Bill discussed in Parliament before the 2011 summer recess. Even £50 million per year to existing reactors will give a £1 billion windfall to nuclear power operators, predominantly EDF Energy. Labour MP Nick Dakin put forward an amendment to the Finance Bill to introduce a windfall tax, but failed to get approval. [xxvi] The Carbon Floor Price is expected to be introduced in April 2013. [xxvii]

5. Capacity Mechanism

The Draft Energy Bill contains a little more detail about the 'capacity mechanism'. This was also proposed in the earlier 2011 White Paper[xxviii] but it is still not yet fully defined. Its main purpose is to address what the Government sees as the problem of 'resource adequacy': "... *how to ensure there is sufficient reliable and diverse capacity to meet demand, for example during winter anti-cyclonic conditions where demand is high and wind generation low for a number of days*."

Energy Fair, a group of independent researchers and energy consultants which has made a formal complaint to the European Commission about unlawful state aid by the UK for nuclear power (the NFLA has formally supported the Energy Fair complaint), says the Government's proposals in this area need to be more fully defined before it is possible to see more clearly whether or how they provide a back-door subsidy for nuclear power. If, for example, they allow the Government to help pay for the building of nuclear power stations that would be used only rarely, that would indeed be an unjustifiable subsidy for nuclear power. [xxix]

One of the most disconcerting things about the Bill is the Government's decision to omit a binding commitment to decarbonising the electricity supply by 2030, which the Climate Change Committee described as essential to ensure the UK meets its 2050 carbon targets. Instead, a statement from Ed Davey promised to decarbonise the UK's electricity supply "in the 2030s", essentially pushing it back by another decade and prompting fears, which the NFLA share, that this is the start of an incremental slip in government commitment to carbon targets. The Bill will give the government powers to introduce an emissions performance standard limiting how much CO_2 power plants can release, but this will initially be set at 450 grams of CO_2 per kilowatt hour of electricity produced which is not enough to limit development of gas. Taken together with the new Capacity Mechanism in the Bill which will favour the construction of new gas plant, this has raised concerns about a renewed 'dash-for-gas'.

Nor are there any new commitments to energy efficiency. The best and cheapest way to make progress on decarbonisation, security of supply and affordability is to reduce the amount of energy consumed through energy efficiency measures, where Councils can take a leading and pro-active role. The omission in the bill of the "Negawatts" strategy to incentivise energy savings is puzzling and very disappointing.

6. Conclusions

In the NFLA's view, the UK Government appears to be planning to force consumers to subsidise nuclear power through its electricity market reforms contained within the Draft Energy Bill, despite having repeatedly promised there would be no public subsidy for new reactors.

Offering new nuclear operators a fixed unit price for the cost of spent fuel management and disposal represents a subsidy of perhaps as much as £427 million per reactor. Underwriting nuclear operators' nuclear waste and decommissioning costs also represents a subsidy.

Any limit on liability on the costs of nuclear accidents eases the burden on nuclear operators. Paying for commercial insurance could add around half a euro to the cost of a unit of electricity, so a cap on liability represents a subsidy. Though this is being dealt with through a different policy process, this is indicative of the kind of unfair support the nuclear industry is receiving.

Subsiding new technologies, which can help meet the country's objective of reducing greenhouse gas emissions, in order to help their deployment and reduce costs so they can eventually reach market maturity and no longer require a subsidy, is a sensible government policy. The NFLA strongly supports Government assistance for renewable energy technologies, energy efficiency and microgeneration, and remains disappointed they are not given the kind of support that our key European competitors are providing. But subsidising a nuclear technology which has already existed for over 70 years without achieving the expected cost reductions, and which produces a dangerous waste we are not sure what to do with, is certainly not in the interest of the taxpayer or the electricity consumer.

If the Select Committee has any queries with the detail contained within this NFLA submission please contact the NFLA Secretary, Sean Morris on s.morris4@manchester.gov.uk or by using the details outlined at the top of this letter

Yours sincerely,

Councillor Brian Goodall
NFLA Chair

* 'Spinwatch' is an independent non-profit making organisation which monitors the role of public relations and 'spin' in contemporary society. Spinwatch was founded in 2004 and promotes greater understanding of the role of PR, propaganda and lobbying through its website and through other outreach and campaigning activities, including media appearances, book and pamphlet writing, 'Spinwalks' and investigative reporting.

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10. References

[i] The UK Coalition Government, Our Programme for Government, Cabinet Office, May 2010.
http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf

[ii] Radio 4, Today Programme, 13 May 2010
http://news.bbc.co.uk/today/hi/today/newsid_8679000/8679504.stm

[iii] Marlow, B. *Secret boost for nuclear plants despite coalition split*, Sunday Times, 16 May 2010
http://www.thesundaytimes.co.uk/sto/business/energy_and_environment/article290274.ece

[iv] Thomas, S. *Blair's nuclear dream faces financial meltdown*. Parliamentary Brief, January 2010.

[v] Burke, T. Say yes to negawatts, no to nuclear subsidy, ENDS Reports, March 2011

[vi] Harvey, F. And Macalister, T. Ministers planning hidden subsidies for nuclear power, Guardian, 20 April 2012. http://www.guardian.co.uk/environment/2012/apr/20/coalition-u-turn-nuclear-energy-subsidies
[vii] Mason, R. UK Government agrees to subsidise nuclear power companies prices, Telegraph 16 December 2010. http://www.telegraph.co.uk/finance/newsbysector/energy/8204683/UK-government-agrees-to-subsidise-nuclear-power-companies-prices.html
[viii] Michael Meacher, The nuclear wheeze goes critical, 30 April 2012 http://www.michaelmeacher.info/weblog/2012/04/the-nuclear-wheeze-goes-critical/
[ix] Mitchell, C. Nuclear Power is the Reason for the New Energy Regulations, Guardian, 11 March 2011. http://www.guardian.co.uk/environment/2011/mar/11/nuclear-power-reason-energy-regulations
[x] Department of Energy and Climate Change , Planning our electric future: a white paper for secure, affordable and low-carbon electricity, July 2011. http://www.decc.gov.uk/en/content/cms/legislation/white_papers/emr_wp_2011/emr_wp_2011.aspx
[xi] Webb, T. Soaring Costs Threaten to Blow Nuclear Plans Apart, Times 7th May 2012 http://www.thetimes.co.uk/tto/business/industries/utilities/article3406852.ece
[xii] Reuters 8th May 2012 http://www.reuters.com/article/2012/05/08/nuclear-britain-edf-idUSL5E8G8FQ620120508
[xiii] Tom Burke 28th May 2012 http://tomburke.co.uk/2012/05/28/hinkley-and-sizewell-will-cost-us-155-billion-over-30-years-under-the-cfd/
[xiv] DECC, Planning our electric future: Technical Update, December 2011 http://www.decc.gov.uk/assets/decc/11/meeting-energy-demand/energy-markets/3884-planning-electric-future-technical-update.pdf
[xv] Professional Engineering, Questions over funding for nuclear expansion, 3 October 2011 http://profeng.com/news/questions-over-funding-for-nuclear-expansion
[xvi] Out-Law.com, Environmental campaigners complain to European Commission about nuclear 'subsidies,' 24 January 2012. http://www.out-law.com/en/articles/2012/january-/environmental-campaigners-complain-to-european-commission-about-nuclear-subsidies/
[xvii] Harvey, F. And Macalister, T. Ministers planning hidden subsidies for nuclear power, Guardian, 20 April 2012. http://www.guardian.co.uk/environment/2012/apr/20/coalition-u-turn-nuclear-energy-subsidies
[xviii] Hall, F MEP, Subsidies for nuclear energy go against coalition agreement and economic sense, Liberal Voice 18 April 2012 http://www.libdemvoice.org/28132-28132.html
[xix] Stellfox, D, Hendry says EDF not stipulated carbon or strike price needed for Hinkley C; EC OK pending, i-Nuclear 19th April 2012 http://www.i-nuclear.com/2012/04/19/hendry-says-edf-not-stipulated-carbon-or-strike-price-needed-for-hinkley-c-ec-ok-pending/
[xx] Harvey, F. and Macalister, T. Ministers planning hidden subsidies for nuclear power, Guardian, 20 April 2012. http://www.guardian.co.uk/environment/2012/apr/20/coalition-u-turn-nuclear-energy-subsidies
[xxi] Harvey, F. and Macalister, T. Ministers planning hidden subsidies for nuclear power, Guardian, 20 April 2012. http://www.guardian.co.uk/environment/2012/apr/20/coalition-u-turn-nuclear-energy-subsidies
[xxii] Ed Davey writes there will be no public subsidy for nuclear, Liberal Voice 20th April 2012 http://www.libdemvoice.org/there-will-be-no-public-subsidy-for-nuclear-28150.html
[xxiii] Hall, F MEP, Subsidies for nuclear energy go against coalition agreement and economic sense, Liberal Voice 18 April 2012 http://www.libdemvoice.org/28132-28132.html
[xxiv] Justine Greening MP in reply to a written parliamentary question from Martin Horwood MP, the Economic Secretary, on 9 of May 2011.
[xxv] WWF, Energy Bills to Rise as Nuclear get £3.43 billion for Doing Nothing, 14 February 2012 http://www.wwf.org.uk/what_we_do/press_centre/?4629/Energy-bills-to- rise-asnuclear-gets-343bn-for-doing-nothing ; WWF, How Can Zero Nuclear Subsidy = £3.4bn profit? 14 February 2012 http://www.wwf.org.uk/wwf_articles.cfm?unewsid=4625
[xxvi] Hutchins, L. MPs should keep their promises not back £1bn windfall for nuclear power. http://www.greenpeace.org.uk/blog/nuclear/mps-should-keep-their-promises-not-back-%C2%A31-billion-windfall-nuclear-power-20110704
[xxvii] HM Treasury, Carbon Floor Price, 16 December 2010 http://www.hm-treasury.gov.uk/consult_carbon_price_support.htm
[xxviii] DECC, Planning our electric future: a white paper for secure, affordable and low-carbon electricity, July 2011. http://www.decc.gov.uk/en/content/cms/legislation/white_papers/emr_wp_2011/emr_wp_2011.aspx
[xxix] Energy Fair, Subsidies for nuclear power in the UK government's proposed electricity market reform. November 2011 http://www.mng.org.uk/gh/private/EMR_subsidies.pdf