

From: [REDACTED]
To: [Wylfa Newydd](#)
Subject: EN010007: ExA Deadline 6 comment - jc180219
Date: 18 February 2019 23:06:40
Attachments: [EN010007 ExA Deadline 6 comment erratum-addendum-evid-deficit-SWQ2.17.2-devolved-iuris jc180219.docx](#)

FAO
Wylfa Newydd Case Team
Infrastructure Planning Inspectorate

Dear Madam/Sir

Please find attached Deadline 6 Comment.

signed,

J Chanay

Summary

- 6.1 Equality of arms: capacity and resource constraint**
- 6.2 Further Erratum in Deadline 4 Comment REP4-035**
- 6.3 Addendum: Deadline 5 Comment REP5-083**
- 6.4 Examination Library Index: user friendliness?**
- 6.5 DCO material evidence deficit**
 - 6.5.1 REP5-002: Inaccessible academic papers under SWQ2.5.6 Appendix
 - 6.5.2 REP5-002: the Applicant's response to SWQ2.16.1 and the Applicant's planned demise subsequent to "suspension" of the Wylfa Newydd Project
- 6.6 Continuation of the DCO Examination under the circumstances, and Interested Parties**
- 6.7 REP5-002: Horizon's Responses to ExA's Further Written Questions**
 - 6.7.2 Section 1, SWQ2.17.2: policy context
 - 6.7.3 Section 2, SWQ2.17.2: the weight warranted by the 2008 White Paper on Nuclear Energy
 - 6.7.4 Section 3, SWQ2.17.2: the Applicant's additional evidence on need for Wylfa Newydd beyond 2025 and the generation cost
 - 6.7.5 Section 4, SWQ2.17.2: socio economic assessment of impact of leakage from the local economy
 - 6.7.6 Section 4, SWQ2.17.2: use of tailpieces in the dDCO
 - 6.7.7 Section 5, SWQ2.17.2: section 106 agreements
 - 6.7.8 Section 5, SWQ2.17.2: The Applicant's withdrawal of SPC Planning Application 38C310F/EIA/ECON from devolved development consent jurisdiction
 - 6.7.9 Section 6, SWQ2.17.2: dDCO Work No. 1D and devolved jurisdiction
 - 6.7.10 Section 6, SWQ2.17.2: dDCO Marine Works and devolved jurisdiction

Erratum; addendum; DCO material evidence deficit; and, SWQ: policy context, weight, generation cost and devolution matters

EN010007 ExA Deadline 6 Comment

Application by Horizon Nuclear Power Limited for an Order Granting Development Consent for the Wylfa Newydd Nuclear Power Station

Summary

6.1 Equality of arms: capacity and resource constraint

6.2 Further Erratum in Deadline 4 Comment REP4-035

6.3 Addendum: Deadline 5 Comment REP5-083

6.4 Examination Library Index: user friendliness?

6.5 DCO material evidence deficit

6.5.1 REP5-002: Inaccessible academic papers under SWQ2.5.6 Appendix

6.5.2 REP5-002: the Applicant's response to SWQ2.16.1 and the Applicant's planned demise subsequent to "suspension" of the Wylfa Newydd Project

6.6 Continuation of the DCO Examination under the circumstances, and Interested Parties

6.7 REP5-002: Horizon's Responses to ExA's Further Written Questions

6.7.2 Section 1, SWQ2.17.2: policy context

6.7.3 Section 2, SWQ2.17.2: the weight warranted by the 2008 White Paper on Nuclear Energy

6.7.4 Section 3, SWQ2.17.2: the Applicant's additional evidence on need for Wylfa Newydd beyond 2025 and the generation cost

6.7.5 Section 4, SWQ2.17.2: socio economic assessment of impact of leakage from the local economy

6.7.6 Section 4, SWQ2.17.2: use of tailpieces in the dDCO

6.7.7 Section 5, SWQ2.17.2: section 106 agreements

6.7.8 Section 5, SWQ2.17.2: The Applicant's withdrawal of SPC Planning Application 38C310F/EIA/ECON from devolved development consent jurisdiction

6.7.9 Section 6, SWQ2.17.2: dDCO Work No. 1D and devolved jurisdiction

6.7.10 Section 6, SWQ2.17.2: dDCO Marine Works and devolved jurisdiction

6.1 Equality of arms: capacity and resource constraint

6.1.1 Inadequate resource capacity as lay Interested Party continues to hamper timeous appraisal of 22 submissions from statutory bodies and 3 from non-governmental organisations, alongside 56 submissions from the Applicant under Deadline 5.

6.2 Further Erratum in Deadline 4 Comment REP4-035

6.2.1 The ExA's attention is respectfully drawn to the following proofing error.

In para.4.5.3.5.2, please delete "REP2-035" in the last line, and replace with "**REP2-305**". Apologies to all for the inconvenience caused.

6.3 Addendum: Deadline 5 Comment REP5-083

6.3.1 Please insert a following new footnote to para.5.5.3.4.2.b, overlooked during drafting the Deadline 5 submission.

At the word "Consultation" in the second line, insert Footnote "2a" as follows:

"See section 1.2 in:
"Wylfa Newydd Horizon PAC 3 June2017 comment jc220617, emailed to Horizon and copied to PINS; as well as a reply from the Case Manager at Major Applications & Plans dated 5 July 2017 (170628_EN010007)."

6.4 Examination Library Index: user friendliness?

6.4.1 Is there any chance of dating all documents in the second column under the following two Reference Categories?

PD
AS

6.5 DCO material evidence deficit

6.5.1 REP5-002: Inaccessible academic papers under SWQ2.5.6 Appendix

6.5.1.1 The ExA are respectfully requested to consider whether the provision only of Abstracts of three academic papers in the Applicant's Q2.5.6 Appendix complies with the requirement in the ExA's Rule 8 letter. Namely, all documents have to be accessible to all Interested Parties. An Abstract of an academic paper does not equate with access to its content.

6.5.2 REP5-002: the Applicant's response to SWQ2.16.1 and the Applicant's planned demise subsequent to "suspension" of the Wylfa Newydd Project

6.5.2.1 The UK Parliamentary Welsh Affairs Committee is currently conducting an Inquiry into the "suspension" of the Wylfa Newydd Project by Hitachi Limited. According to the Applicant's evidence to the Committee on 12 February 2019¹,

"I think that they have suspended the project, are taking stock and are looking at how to reinvigorate the project; that is one way of describing it. I think the issue is that the model of being the developer and the potential

¹ Oral evidence by the Applicant's Director of Nuclear Operations, in reply to Question 31. See transcript: WAC (2019) Welsh Affairs Committee Oral evidence: Wylfa Newydd nuclear power station, HC 1938 Tuesday 12 February 2019 Ordered by the House of Commons to be published on 12 February 2019. Full transcript available at: <file:///E:/sil/energy/wylfa/wb-proposal/wn%20inquiry%20transcript%2096520%20hc1938%20wac120219.pdf>

utility was not working, and the Horizon company will be dismantled over the coming weeks. We are in a staff consultation period, which ends in early March. After that point, the intention is that most staff will be served notice. Therefore, the Hitachi-Horizon vehicle does not exist in the construct going forward. I think that is an important point. Moving forward, the developer-led piece may need examination, as I mentioned earlier, but Hitachi-Horizon will not exist as it does today.”

6.5.2.2 The evolving situation leaves an impression of the Applicant as a paper nuclear company, rather than even an apprentice nuclear power operator: REP4-035 para.4.6.1.c, referring. Evidence on preparation for the entity’s dismantlement was clearly missing from the Applicant’s response to SWQ2.16.1. The ExA are respectfully requested to establish by the next Deadline,

- a. the full particulars regarding the Applicant's assured demise;
- b. implication for continuation of the current Examination;
- c. to the extent all local agreements and mitigation measures brokered under the current DCO Examination are bespoke to the instant Applicant in particular, what is the implication of heightening degree of uncertainty and rank lack of clarity for the likelihood of guaranteed delivery, enforceability and implementation at some unspecified future date (involving an as yet unknown developer/operator) of:
 - all manner of environmental mitigation measures, proposals and agreements;
 - all aspects of any section 106 agreement;
 - all manner of detailed control documents, proposed Codes of Construction Practice for the 10-year build phase, including bespoke liaison arrangements for residents and communities bordering the WND A site boundary; and,
 - engagement, interest and planning by third parties on any manner of socio-economic benefits and opportunities, including supply chain development, establishment and facilitation; *et cetera?* And,
- d. the implication of Granting a DCO for the proposed Wylfa Newydd Nuclear Generating Station in full knowledge of the Applicant’s assured demise (perhaps coinciding with the closure of the ExA’s current Examination of the Application for a Grant of DCO).

6.6 Continuation of the DCO Examination under the circumstances, and Interested Parties

6.6.1 In order to continue taking part in the current Examination of the Applicant’s Application for a Grant of DCO for the proposed Wylfa Newydd Nuclear Generating Station, Interested Parties are clearly compelled to sink considerable effort, time and other resources into Examination proceedings. A number of plainly unsettling primary facts about the Applicant and the DCO Project have lately come to the fore, including at least the following three:

- a. the proposed Euros 13.5 billion Wylfa Newydd Nuclear Generating Station (APP-032 para.2.2.1) is now officially and widely accepted as fundamentally a commercially unviable business proposal. A five-year long attempt by Hitachi Limited (the Applicant’s owner) to render the project commercially profitable by transferring substantial risk liabilities on to UK taxpayers (through leveraging public investment finance in the nuclear new build) has patently failed²;

² Hansard HC (2019) Nuclear Update. Statement by The Secretary of State for Business, Energy and Industrial Strategy. House of Commons Hansard Volume 652, 17 January 2019. Available at: <https://hansard.parliament.uk/Commons/2019-01-17/debates/9C841326-B63A-4790-867F-905DEDDDD8AC/NuclearUpdate#contribution-AB1CF541-F832-4465-A6BE-437CE42EB8C3>

- b. according to the Applicant's response to SWQ2.4.56 (4)(a), in REP5-002, the issued share capital of Horizon Nuclear Power Wylfa Limited stands at approximately one-tenth of the estimated build cost of the proposed twin UKABWRs at Wylfa under the Wylfa Newydd DCO Application; and,
- c. the fact that Hitachi Limited (the Applicant's parent global conglomerate) is taking active steps to dismantle and dissolve the Applicant as a UK business entity, by around the end of March 2019: para.6.5.2.1, above, referring.

6.6.2 Given these somewhat unique circumstances, and having regard as well to potential implications (para.6.5.2.2.c, above),

- a. does the Applicant's continuation with the DCO Examination effectively risk draining the scarce resources of Interested Parties for an altogether uncertain purpose?
- b. In view of escalating future uncertainty bearing on deliverability and enforcement of any local agreements and measures that are all bespoke to this Applicant, what meaningful guarantee can Interested Parties actually rely on that their endeavours are worth the effort and expenditure of time and scarce resources, in the public interest?
- c. Would it be permissible for the ExA to ascertain formally from all Interested Parties whether they consider it meaningful and productive for the Examination to continue in the public interest, as well as their views on whether to continue taking part in the Examination?

6.6.3 The ExA are respectfully requested to consider establishing clarity.

6.7 REP5-002: Horizon's Responses to ExA's Further Written Questions

6.7.1 These observations follow the numbered sections in the Applicant's response to SWQ2.17.2.

6.7.2 Section 1, SWQ2.17.2: policy context

6.7.2.1 The Applicant submits in the fifth para that,

"If something is relevant, the weight to attach to it is a matter of planning judgement for the Secretary of State".

- a. In the instance of the Application for a Grant of DCO for the proposed Wylfa Newydd Nuclear Generating Station, there arise two distinctly separate tiers of planning judgement. Namely, the Secretary of State (decision making) and the ExA (examining, reporting and recommending), respectively, Judgements at each level could procedurally be expected to be reached independently of the other. The ExA could not be expected to second-guess the Decision Making Secretary State's judgement on any planning matter. Nor draft recommendations with an eye to what the Decision Making Secretary of State might be included to conclude.
- b. It appears doubtful whether either the 2011 NPSs or the December 2017 Ministerial Statement could reasonably be held to merit significant weight. The Applicant's response fails to test properly what it considers is "relevant" in those documents, thereby failing to justify substantial weight. In particular, given:
 - (i) inapplicability of 2011 NPSs beyond 2025, considering that the assumptions, evidence base, findings, projections, conclusions and recommendations therein were duly determined specifically for the timeframe concluding at the end of 2025;
 - (ii) current non-existence of approved relevant NPSs for the timeframe beyond 2025, containing appropriate assumptions, evidence base, findings, projections, conclusions and recommendations in respect of nuclear new build deployable beyond 2025;

- (iii) absence from the Ministerial Statement of the assumptions, evidence base, findings, projections, conclusions and recommendations duly determined relevant to a nuclear new build timeframe beyond 2025;
- (iv) apparent deficiency of specific and substantial material evidence in the Applicant's flagship Oxera Report (REP4-035 paras 4.4.4.d-e, inclusive), and which remains un-faulted by the Applicant; and,
- (v) the relevant change in circumstances identified in the Minister's Update Statement to Parliament on 17 January 2019: para.6.7.2.2.f, below, referring.

6.7.2.2 In the seventh para, the Applicant repeats an assertion that,

"In the present case, the Government has made clear its view in respect of the relevance of NPS EN-1 and NPS EN-6 through the Ministerial Statement",

and, proceeds in the eighth para to reproduce the very paragraph from the Ministerial Statement of 7 December 2017 that is analysed in paras 4.2.1.5-6 and under section 4.2.2 in REP4-035, bereft of comment.

- a. Plainly, the Applicant's response fails to argue against any specific point in REP4-035 analysis. In that regard, the analysis stands un-faulted.
- b. To that extent, the implication discussed in REP4-035 para.4.2.2.3, and in particular sub-para (b) thereat, stands seemingly undisputed.
- c. Moreover, the issue discussed in REP4-035 para.4.2.2.4.d, remains unaddressed by the Applicant.
- d. The Applicant's reproduction of the paragraph in question continues to misquote the Ministerial Statement as stating "material change in circumstances". As pointed out in REP4-035 para.4.2.2.6, the Hansard reports: "relevant change in circumstances." Perhaps the ExA might set the record straight.
- e. The Applicant fails to address as well the test for "relevant change in circumstances": REP4-035 para.4.2.2.4.d, referring. Responding to FWQ16.0.1 (REP2-375), in the seventh para, the Applicant deployed its flagship Oxera Report to conclude in the final para:

"Horizon considers that that there have been no relevant changes in circumstances since NPS EN-1 and NPS EN-6 were adopted."

Plainly, it falls to the Applicant to explain why the Oxera Report (dated February 2018) failed to pick up on objective evidence of relevant changes that had been taking place over the past eight years as recognised, clearly and unequivocally, in the January 2019 Ministerial Statement below.

- f. Responding to SWQ2.17.2, the Applicant fails further to take proper account of the Secretary of State's Update Statement to Parliament on 17 January 2019³. Namely,

"The economics of the energy market have changed significantly in recent years. The cost of renewable technologies such as offshore wind has fallen dramatically, to the point where they now require very little public subsidy and will soon require none. We have also seen a strengthening in the pipeline of projects coming forward, meaning that renewable energy may now be just as cheap, but also readily available.

³ Hansard HC (2019) Nuclear Update. Statement by The Secretary of State for Business, Energy and Industrial Strategy. House of Commons Hansard, Volume 652, 17 January 2019. Available at: <https://hansard.parliament.uk/Commons/2019-01-17/debates/9C841326-B63A-4790-867F-905DEDDDD8AC/NuclearUpdate#contribution-AB1CF541-F832-4465-A6BE-437CE42EB8C3>

“As a result of the developments over the last eight years, we have a well-supplied electricity market. Our electricity margin forecast is more than 11% for this winter, having grown for each of the last five years. While that is good news for consumers as we strive to reduce carbon emissions at the lowest cost, that positive trend has not been true when it comes to new nuclear. Across the world, a combination of factors, including tighter safety regulations, has seen the cost of most new nuclear projects increase as the cost of alternatives has fallen and the cost of construction has risen. That has made the challenge of attracting private finance into projects more difficult than ever, with investors favouring other technologies that are less capital-intensive up front, quicker to build and less exposed to cost overruns.”

The January 2019 updated Ministerial Statement manifestly underscores the point that significant relevant and material change has indeed been evidenced over the last eight years, in the delivery of low carbon energy technologies, including nuclear new build. This material evidence appears inexplicably missing from the Applicant’s flagship Oxera Report (REP4-035 paras 4.4.4.d.(i) and e.(ii), referring). Moreover, the Applicant’s SWQ2.17.2 response was clearly drafted in the wake of the Minister’s Update Statement.

- g. Giving evidence to the UK Parliamentary Welsh Affairs Committee on 12 February 2019, the Parliamentary Under-Secretary of State summed up another factor comprising relevant change in circumstance, as follows⁴:

“To put it into rough proportion, the Wylfa development is to provide about three—I always get my gigawatts and terrawatts mixed up—about that amount of power per year. Last year, we had one of our contracts for difference for offshore wind, which produced 3 GW. These are large amounts of power, but we have got the resilience and the gap built into the system.”

Self evidently, the Minister’s Oral Evidence plainly could not be said to lend support to the Applicant’s response to FWQ16.0.1 in REP2-375, in the first and final paras, respectively, that

“there have been no relevant changes in circumstances since NPS EN-1 and NPS EN-6 were adopted”

- 6.7.2.3 Nothing in the Applicant’s ninth para faults the analysis in REP4-035 para.4.2.1.4. The Applicant fails as well to respond to REP4-035 para.4.4.3.
- 6.7.2.4 In the final (tenth) para, the Applicant argues that it “considers” that EN-1 and EN-6 warrant “substantial weight” by virtue of Government policy and “by a range of other evidence” including the Applicant’s REP3-024. This is a curious circular argument. The Applicant’s “consideration” has not faulted REP4-035,
- a. paras 4.2.1.3.b and 4.2.2.5.a, respectively, in respect of relevant evidence;
 - b. para 4.2.1.5.a and 4.2.2.2, in respect of the Ministerial Statement and policy;
 - c. paras 4.2.1.4.c and 4.2.2.4.c, in respect of manifest absence of relevant National Policy Statement evidence base for a time frame beyond 2025;
 - d. paras 4.4.4.d-e, inclusive, in respect of whether the Oxera Report contains all relevant need assessment information, in setting out the Applicant’s case for need for a new nuclear power station at Wylfa; and,

⁴ Oral evidence by the Applicant’s Director of Nuclear Operations, in reply to Question 81. See transcript: WAC (2019) Welsh Affairs Committee Oral evidence: Wylfa Newydd nuclear power station, HC 1938 Tuesday 12 February 2019 Ordered by the House of Commons to be published on 12 February 2019. Full transcript available at: <file:///E:/silo/energy/wylfa/wb-proposal/wn%20inquiry%20transcript%2096520%20hc1938%20wac120219.pdf>

- e. in addition, the Applicant evidently fails to take proper account of the Minister's Update Statement to Parliament on 17 January 2019: para.6.7.2.2.f and g, above, referring. The Update Statement was clearly available prior to the Applicant's REP5-002 submission.

It therefore remains questionable whether the Applicant has discharged the burden of proof substantiating the Applicant's conclusion in the final para under Section 1.

6.7.3 Section 2, SWQ2.17.2: the weight warranted by the 2008 White Paper on Nuclear Energy

- 6.7.3.1 On the whole, the Applicant's Section 2 response seemingly appears to find agreement with the analysis in REP4-035 para.4.5.3.5.1. Namely, that the entire edifice of the NPSs EN-1 and EN-6 rests on the 2008 White Paper on Nuclear Energy. However, there seems to be an incongruity in the Applicant's response in the final third para. Namely,

"Horizon does not consider there is any specific reason for considering the White Papers further in the context of the DCO application"

despite accepting that,

"To the extent relevant to consideration of DCO applications for Energy NSIPs, this has been incorporated into NPS EN-1 and NPS EN-6."

- 6.7.3.2 With respect, by definition, incorporation of the 2008 Nuclear White Paper in the NPSs implicitly deems that it continues to command significant weight. The White Paper has not been replaced or superseded to date. The "need" criteria at the heart of the Nuclear White Paper in particular continues to remain material to consideration of need for the new nuclear DCO project being examined under section 105(2)(c) of the PA2008: REP4-035 paras 4.4.2-3, inclusive, referring. There is no bar to the ExA considering the "need" criteria as relevant to its section 105 Examination of the Applicant's assessment of need for the proposed Wylfa Newydd Nuclear Generating Station, in conjunction with assessment of reasonable alternatives considered by the Applicant.

6.7.4 Section 3, SWQ2.17.2: the Applicant's additional evidence on need for Wylfa Newydd beyond 2025 and the generation cost

- 6.7.4.1 With respect, nothing in REP4-035 section 4.4.4 took issue with the general consensus in the Applicant's additional evidence reports on the role of nuclear and renewable energy sources in decarbonising electricity generation. The Applicant's first para in Section 3 is misplaced.

- a. For the purposes of the Examination, the validity of additional evidence submitted electively by the Applicant turns on the extent to which the specific content of a report could be found capable of making good identifiable deficiency in the Applicant's flagship Oxera Report: REP4-035 paras 4.4.4.d-e, inclusive, and para.4.4.9, respectively, referring.
- b. Validity does not turn solely on whether the authors are energy experts or world-leading academics (who, by the way, habitually challenge, debate and disagree with one another's reports, premises, findings, recommendations and conclusions!), or on whether it is a global scientific body. This last point in the Applicant's second para in Section 3 is somewhat bemusing, in light of the opening lines of para.4.4.8 in REP4-035.

- 6.7.4.2 The Applicant's response in Section 3 fails to fault the analysis of the Oxera Report in REP4-035. The Oxera Report purports to make a specific case for a new nuclear generating station at Wylfa in particular.

- a. To the extent the Oxera Report may be found deficient, it is logical and reasonable to test all additional evidence submitted by the Applicant into Examination, against any such deficiency.

- b. In this instance, the Applicant has chosen to submit additional evidence that, by its very nature and source, could not be expected to make good the specific deficiencies of the flagship Oxera Report: REP4-035 paras 4.4.5-8, inclusive, referring. While global reports decidedly inform appropriate central government policy, a corraling of global reports does not suffice in this instance to make good identified evidence deficiency on specific need for a specific local project. The Applicant has chosen to rely on one arguably deficient (albeit, independent) specific report on need for new nuclear at the Wylfa site in particular; one report that describes an overall picture in the UK; one regional general report; and, two reports global in nature.

6.7.4.3 In any case, the Applicant's response second para in Section 3 fails to identify the specific contribution Wylfa Newydd is expected to make to the balance of demonstrable need for non-renewable electricity generating capacity in the UK beyond 2025⁵.

6.7.4.4 The Applicant asserts In the fourth paragraph that the generation cost criterion:

"is not relevant to the question of the need for new nuclear within the UK's future energy system"

- a. With respect, generation cost assessment constitutes standard core criterion across industry for comparing and assessing affordable need for all new electricity generation capacity. It comprises a level playing field for all electricity generating technologies. The Applicant's reference to strike price negotiation is a distraction.
- b. Rule of thumb would have it that the total financial cost of Wylfa Newydd computes into its electricity generation cost. As the Applicant's evidence to the UK Parliamentary Welsh Affairs Committee on 12 February 2019 put it, the strike price does not relate directly to the financial cost. There the Applicant was explaining failure by Hitachi Limited to secure agreement with the UK Government on a viable structure for a public finance package in order to salvage the commercially unviable Wylfa Newydd Project:

"I think it comes down to the financing structure. I don't believe even in the construct of it being a higher strike price that we could have solved some of the structural issues."⁶

- c. The Applicant's resistance to discussing the Wylfa Newydd generation cost is at odds with the Applicant's pointed reference to it in APP-032 para.9.4.11.(d). Namely,

"nuclear is competitive with other forms of generating technology including lowest cost renewable and the Government believes that new nuclear is likely to become the least expensive form of low carbon electricity generation."

Note: APP-032 has come to attention following reference to it in REP5-002.

6.7.4.5 Moreover, the acclaimed urgent need for a new nuclear power station at Wylfa would appear to be prone to shifting time horizons.

- a. In the 2011 EN-6 NPS, nuclear new build at Wylfa was deemed urgently required by the end of 2025.
- b. That urgency had seemingly evaporated by the time of the Applicant's Application to PINS for a Grant of DCO for the proposed Wylfa Newydd, on 1st June 2018. According to

⁵ Applying the fourth bullet point under para.3.3.22. In: DECC (2011) Overarching National Policy Statement for Energy (EN-1). Laid before Parliament for approval – June 2011. With Impact Assessment. URN 11D/711. Department of Energy and Climate Change. July 2011. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf

⁶ Oral evidence by the Applicant's Director of Nuclear Operations, in reply to Question 32. See transcript: WAC (2019) Welsh Affairs Committee Oral evidence: Wylfa Newydd nuclear power station, HC 1938 Tuesday 12 February 2019 Ordered by the House of Commons to be published on 12 February 2019. Full transcript available at: <file:///E:/silo/energy/wylfa/wb-proposal/wn%20inquiry%20transcript%2096520%20hc1938%20wac120219.pdf>

the Applicant, Wylfa Newydd could not be commissioned by the end of 2025: the first reactor unit could be expected to be deployed by 2027.

- c. Under the latest time-shift, following the decision by Hitachi Limited (the Applicant's parent company) on 17 January 2019 to suspend further work on the Wylfa Newydd Project, the Applicant informs the ExA in response to SWQ2.16.1 in REP5-002 that,

"At this point Horizon cannot put a definite time on the delay but anticipate it being around 18 months to two years. As shown by actions such as the decision to continue with the DCO through to the end of the examination phase, Horizon are looking to take actions that will facilitate a timely restart should other crucial conditions be met, most pressingly around the need for a new funding and financing model."

The Applicant's response points to a rather elasticised urgent need for a new nuclear power station at Wylfa, subject in addition to meeting "other crucial conditions".

6.7.5 Section 4, SWQ2.17.2: socio economic assessment of impact of leakage from the local economy

6.7.5.1 It is plain from the brusque response in the first para of Section 4 that the Applicant could not possibly have read the relevant REP2-305 paras 2.2.4.1-2, which specifically referred to the Applicant's REP3-024. REP3-024 para.1.2.20 remains totally opaque on assessment of the socio-economic impacts of an annual injection of an estimated £8.4 million in wages into the economy of Anglesey. Referring back to an opaque REP3-024 is no answer. It merely compounds opacity.

- a. The response under SWQ2.17.2 suggests not only that the Applicant has not undertaken this assessment, the Applicant shows no interest either. This precludes proper examination of material impacts of the DCO Project locally.
- b. The ExA is arguably left without objective basis for assessing all relevant socio-economic impacts of the injection of salaries and wages of the permanent operating staff into the local economy of North Anglesey and North Wales. Meaningful local impacts assessment under the current Examination is consequently thwarted and left incomplete.

6.7.6 Section 4, SWQ2.17.2: use of tailpieces in the dDCO

6.7.6.1 The remaining paras under the Applicant's response section 4 concern the use of tailpieces in the dDCO.

6.7.6.2 Comment in respect of this response is reserved for the time being, pending available capacity, as well as further developments.

6.7.7 Section 5, SWQ2.17.2: section 106 agreements

6.7.7.1 Comment on the Applicant's response under Section 5, bearing on section 106 matters, is reserved for the time being, not the least in view of observation in para.6.5.2.2 hereof.

6.7.8 Section 5, SWQ2.17.2: The Applicant's withdrawal of SPC Planning Application 38C310F/EIA/ECON from devolved development consent jurisdiction

6.7.8.1 The Applicant's response in the tenth para under Section 5 provides insufficient explanation for the Applicant's action: REP5-083 paras 5.6.3.1-2, inclusive, and para.5.6.4.1 referring as well.

6.7.8.2 Furthermore, the Applicant's final sentence is confoundingly opaque, lacking sensible explanation. Namely,

"Horizon has, however, retained article 5 to provide for the situation in future that Horizon may wish to seek planning permission separately from IACC under the TCPA."

6.7.8.3 As discussed in REP4-035 paras 4.9.2.1.1-2, all SPC elements under the dDCO identical to elements in the withdrawn SPC Planning Application continue to warrant deletion from the dDCO.

6.7.9 Section 6, SWQ2.17.2: dDCO Work No. 1D and devolved jurisdiction

6.7.9.1 With respect, the Applicant has failed to respond as requested by the ExA in PD-013, under SWQ2.17.2. The Applicant has simply reproduced without further justification, word for word the Applicant's response under FWQ20.0.2 in REP2-375, that:

"The spent fuel storage facility and the intermediate level waste storage facility are essential aspects of the Wylfa Newydd Power Station and are therefore part of the NSIP. Neither structure requires a separate designation as a NSIP under section 14 of the Planning Act."

- a. The Applicant's repeated assertion was faulted in REP4-035 paras 4.9.2.3.2 and 4.9.2.3.5, respectively. The Applicant is apparently unable to put forward proper counter argument.
- b. Under the circumstances, the ExA would be entitled to dismiss the Applicant's repeated assertion above.
- c. Please refer as well to further observations in REP5-083 paras 5.5.2.1-5, inclusive, under section 5.5.2.

6.7.9.2 The Applicant's response under Section 6 on opportunistically invoked alternative classification of dDCO Work No. 1D Interim Storage Facilities as "associated development", once more fails to discharge properly the burden of proof under each core principle the Applicant claims is applicable under the relevant DCLG Guidance Paragraph 5.

- a. The Applicant's alternative assertion was touched upon briefly in REP4-035 para.4.9.2.3.6.
- b. Please refer as well to sub-sections 5.5.3 to 5.5.5, inclusive, in REP5-083, where issues bearing on the Applicant's burden of proof and ostensible re-classification of dDCO Work No. 1D as "associated development" are explored in detail. Capacity constraint under Deadline 4 had precluded earlier drafting of these details.
- c. Merely quoting DCLG Guidance para.5 could not reasonably be considered acceptable. Nor could it be held as sufficient or adequate to discharge the Applicant's burden of proof.

6.7.9.3 Deletion of Work No. 1D from the dDCO for Wylfa Newydd continues to remain warranted, as these fall under devolved jurisdiction.

6.7.10 Section 6, SWQ2.17.2: dDCO Marine Works and devolved jurisdiction

6.7.10.1 The Applicant's response would appear to have overlooked REP4-035 para.4.9.2.2.1.

6.7.10.2 Please refer as well to section 5.7 in REP5-083, regarding the application of the Marine and Coastal Access Act 2009 in Wales, bearing on the ExA's SWQ2.4.42 in PD-013.

6.7.10.3 Deletion of respective Marine Works from the dDCO continue to remain warranted, as these fall under devolved jurisdiction.

J Chanay
18.02.2019