

Lords approve Electricity and Gas (Carbon Emissions Reduction) Order 2008

Tue, 29 January 08 | House of Lords - Draft Statutory Instrument Debate

Summary

The Electricity and Gas (Carbon Emissions Reduction) Order 2008 was debated in the House of Lords today.

Opening the debate, Environment, Food and Rural Affairs Minister Lord Rooker insisted that he had answered the concerns that had been expressed in Grand Committee about this order.

He explained that the Government had sought to target people most vulnerable to fuel poverty, but also had concerns about their privacy. He insisted that he could not ask for the names and addresses of 11m people to be given to private companies.

Proposing an amendment to the motion, Lord Jenkin of Roding attacked the Government for failing to provide information to priority housing groups, and Ofgem for failing to meet the 40 per cent obligation contained in this order.

The amendment was not pressed to a vote, though Lord Jenkin stressed that he bring this issue up again when debating the Energy Bill.

At the close of the debate, the Order was accepted without a vote.

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3.07 pm

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Rooker): My Lords, I beg to move the Motion standing in my name on the Order Paper.

Moved, That the draft order laid before the House on 5 December 2007 be approved. 5th Report from the Statutory Instruments Committee. Considered in Grand Committee on 22 January.-(Lord Rooker.)

Lord Jenkin of Roding rose to move, as an amendment to the above Motion, at end to insert "but this House regrets the failure of Her Majesty's Government to mobilise its sources of information to target the measures to help priority group households in time for the start of the three-year period of the order and the potential severity of the penalties that can be imposed on suppliers by Ofgem for any failure to comply with the 40 per cent obligation imposed by the order; and calls on the Government to withdraw the order".

The noble Lord said: My Lords, I tabled this amendment following what I can only describe as a

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very unsatisfactory debate in Grand Committee last Tuesday. It was unsatisfactory because although I had given the Minister's office advance notice of the issues that I wanted to raise, it quickly became clear that his briefing was wholly inadequate to deal with that debate. Indeed, when the noble Lord, Lord Rooker, had to offer profuse apologies for Defra's failure to deal effectively and swiftly with the issues, I began to feel a bit sorry for him.

The issue that concerns me about this order can be simply stated: the order requires energy suppliers—that is, the electricity and gas companies—to secure large reductions in carbon emissions from the household sector, and particularly from vulnerable consumers. The companies have to make sure that 40 per cent of their emission reduction targets are met from the fuel-poor, through households where someone is on any of a specific list of benefits or tax credits, or where someone is aged over 70. The lists are set out in Schedule 2 to the order, and as I am over 70 I should declare an interest. The problem arises because the right to privacy, human rights legislation and data protection legislation prevent energy companies from being told the names and addresses of their customers to whom the 40 per cent obligation applies.

Defra has calculated the number of households with listed benefits or tax credits at 8.8 million; and BERR—I am not quite sure why it is involved—has calculated that households with pensioners over 70 will add another 1.4 million. That makes a total of 11.2 million households, so we are dealing with very large numbers.

The problem of identifying the number of vulnerable households is not new. The Government have run energy savings schemes for some years under the banner of the Energy Efficiency Commitment. They have imposed similar obligations on companies to secure part of their energy savings by targeting vulnerable households. These are assumed to include many of the fuel-poor.

It must by now be clear to the House that imposing these targets on the companies without being free to tell them which of the households they must target creates great difficulties. Indeed, without exception, all the companies and other bodies with which I have spoken have described the problem as extremely difficult. The process is also very expensive. The cost must be added to fuel bills, including those of the fuel-poor, and the procedures that firms must adopt are very wasteful. One local authority has said that it is not at all sure that the system operates for the benefit of the fuel-poor.

The companies have tried to build partnerships with local authorities and housing and social services; have tried to work with the voluntary sector; and have aimed their leafleting at postcode areas believed to contain a high proportion of target households. But without names and addresses, it is all very hit and miss. In Committee, I called it "hide and seek"; on reflection, perhaps a better name would have been "hunt the thimble". It is to the great credit of the industry and its partners that I have listed that under the original EEC rules most of the companies have been able to hit their targets. The regulator Ofgem-

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more about it in a minute-has shown me a chart from 2002 onwards that makes that claim.

However, this order makes very big changes. First, the target is no longer on energy saving; it is on emissions reduction, which adds greatly to the complexity. If anyone doubts that, let them read through the Explanatory Memorandum. Secondly, the overall target is doubled for the next three years-over that of the past three years. Thirdly, the cost to customers will be greatly increased. That was made very clear to me by one of the major companies. The industry has been categorical in its comment on the consultation for this order. According to the Explanatory Memorandum, the new priority group target is "not achievable". One has to accept that. The industry states that it cannot possibly be met.

How has this situation arisen? There are two reasons. First, the industry has been slow to recognise that data-sharing, for which it has consistently asked, is not going to happen. It has been hoping that it will be given the names and addresses of the target customers. However, for the reasons I have outlined-data protection and so forth-that has never been on the cards. The noble Lord, Lord Rooker, made that clear last week in Grand Committee. A much more potent cause is that Defra seems consistently to have refused to admit that identifying the target households is a problem, despite much intensive lobbying on this issue by the industry. In all the 79 pages of the Explanatory Memorandum, the problem of identification is not mentioned. It is not in the summary of the consultation responses on pages 24 and 25; and it is not in the list of barriers described on pages 9 and 10. So until last year, there was no help at all from departments on identifying target customers.

However, last year, for the first time, a pilot scheme began. The industry pays for the leaflets with reply coupons and a telephone help number; the Department for Work and Pensions distributes them to named target households with listed benefits. It is then up to the householder to respond. That covers one in 5,000 of the 11.2 million target households. The Minister told us that there is to be a second pilot this year, this time aimed at pension credit claimants covering a further one in 5,000 of the 11.2 million target households. One has to ask: when are we going to get a system that reaches out to the 11.2 million target households? Is this not going to take years?

Ofgem has now realised the problem. Last month, paragraph 6.6 of its corporate strategy and plan said this, which is quite significant:

"The challenge remains getting the message across to those who most need the help and ensuring that once identified they can benefit from the full range of help [...] This requires a joined-up approach from Government, industry and other agencies".

This is the final sentence:

"It is also dependent on the Government using its sources of information to improve the targeting of the help available".

Noble Lords may recognise that that last sentence forms part of the first part of my amendment, and that I draw on the key words of that paragraph, "the Government using its sources". It is far too late. The three-year period of this order starts next April.

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The 40 per cent target will apply to that three years, starting next April. What have we got to help the industry to deal with this?

I draw on the words of the noble Lord, Lord Rooker, because I want to refer to the rest of my amendment. This is what he said in Grand Committee about how this is going to be policed:

"Ofgem will be responsible for the enforcement of each supplier's obligation. It has the power to impose on a supplier a financial penalty of up to 10 per cent of company turnover if it fails".-[Official Report, 22/1/08; col. GC 85.]

What have we got? The industry says that the target is unachievable. The Government say that if they fail to achieve the three-year targets they can be fined up to 10 per cent of turnover. That could be many millions of pounds.

I have to say that it is a very sad story—a mixture of incompetence and deliberate blindness and delay. In ordinary circumstances I would be tempted to test the opinion of the House, in accordance with the last few words of my amendment. Two things hold me back. First, there is undoubtedly a need to improve the energy efficiency of the household sector as a whole. This order at least makes a serious effort to address that problem. In Grand Committee, the noble Viscount, Lord Brookeborough, from the Cross Benches, demonstrated how much more needs to be done, compared with a country such as Denmark. The noble Lord, Lord Woolmer of Leeds, offered a suggestion that the industry might,

"fund staff employed by the government agencies so that those agencies with the information on fuel poverty could then knock on the doors".-[Official Report, 22/1/08; col. GC 91].

Secondly, there is an opportunity for the Government to deal with this in the Energy Bill, now in Standing Committee in another place. They could correct the flaws that I have identified in this order. It is not open to Parliament to amend statutory instruments, but Parliament can amend Bills. I look forward to hearing the Government's response. I beg to move.

Lord Rooker: My Lords, I am honestly not sure where the noble Lord is coming from on this. He says that he does not want to test the opinion of the House but I would invite him to do so. If he is really serious about what he is saying—that this thing is not going to work and that we should not be doing it—he should go the whole hog. To make the speech that he has just made, all the answers to which he has had since Grand Committee last week, just means that now I have to repeat myself and repeat what was in the long letter I sent him.

Lord Jenkin of Roding: My Lords, I have had no further answers.

Lord Rooker: My Lords, I am always getting this. The letter is there. I signed it yesterday. I do not know anything about the internal postal system in this place, but it was signed yesterday afternoon and it answered all the points that the noble Lord made. I told him that he would get a letter before today, which is why we delayed the Motion from Grand Committee

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until today, at his request. I shall not apologise for the delay of the letter-it is in the system. Perhaps I should have delivered it myself. Sometimes if you want a job done, that is what you have to do.

A noble Lord: It is not good enough.

Lord Rooker: My Lords, I quite agree that it is not good enough. Perhaps if it would satisfy everybody I should stand here and read the letter out, but I do not know whether that would be a good use of the House's time.

The noble Lord makes two central points, both of which have a degree of justification. He asked, first, how you identify the people concerned and, secondly, about the force of the penalties on the companies. Those are the two points dealt with in the amendment to the Motion.

On the first point of identifying people, in the fourth Question today we have just heard about a situation in which people are identified and still do not make the claim for the bursaries. It is bewildering when the money is available that people do not make a claim. In this case, it is somewhat more difficult. Last year 1,000 households were targeted by post-so obviously it was done on a fairly small scale-to test the system whereby the Government get the addresses and take the material from the companies. This year, the mail shot targeted 250,000 households specifically in receipt of pension credit. It is not just any 250,000 households, but single-person households in urban areas and two-person households in rural areas. Again, the Government got the information for the addresses and the industry supplied the necessary leaflets. That was organised in partnership with the DWP, the department that I still call Trade and Industry and eaga, the Warm Front campaign manager. We will work closely with the energy suppliers over the next few months on the feedback from that targeted mail shot because that may be a way for the future.

There is an issue of data sharing here. I would not come to this Chamber asking for permission to disclose the names and addresses of individual beneficiaries to any company, whatever good it was going to do. It has to be done a different way and we have to be serious about this. We want to target the people who we know are out there and are fuel poor, but we have to do that in a way consistent with protecting their privacy. Nobody likes having their door knocked on by an official from the council and being told, "You live in a slum, we've come to help you". They do not like it. My constituents who lived in prefabs did not like it; people on benefit do not like being told, "You're poor, we're from the Government and we've come to help". We have to do it another way, so that there is a partnership and some ownership over the decision-in other words, so that it is the applicant that makes the claim. We have to get the information to the applicant in the best possible way. That is what we are trying to do with the mail shot of 250,000 people on one particular benefit-pension credit. It is highly targeted.

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We also have 50 other projects that have been offered funding through the community energy efficiency fund, which was launched in June last year. Those projects

demonstrate cost-effective ways in which to deliver the carbon emission reduction targets and Warm Front on a local basis. Of course, there are partnership arrangements with social housing providers and charities, which can be done by the companies because they are going to the landlord, not to the individual. So the information transmits through another route. It is second-hand, I fully agree, but I am happy to defend the system because I am not prepared to come to the House to ask for 11 million names and addresses to be given to private companies.

I fully accept that the penalty could look onerous, but as part of its enforcement powers, Ofgem-which is responsible for regulating this scheme-has the power to impose a financial penalty, as I said in Committee. That penalty has to be reasonable in the circumstances and must not exceed 10 per cent. That does not mean that any company that does not meet its target gets fined 10 per cent of its turnover, or even gets fined, because Ofgem would be duty-bound to compare the performance of that company with others in the sector-otherwise that would be completely unfair and unreasonable. We would know whether companies are in breach of the requirement, so it is not inevitable that a financial penalty would be involved. Ofgem first has to decide whether it would be appropriate to do so.

I do not see what the problem is. I did not have every answer for the noble Lord, who had given notice of his questions to the department. I have since answered them in a letter, and I hope that I have answered them now. If he does not like it, I invite him to test the opinion of the House. The reality is that he is asking for the order to be rejected. I do not think that that is a very good idea. I hope that I have given him the answers he requires; if I have not, it is up to him what he does in the next stage.

Lord Jenkin of Roding: My Lords, I understand that I have a right of reply. I am well aware that many noble Lords are waiting for the next business, and I will be extremely short. I have to say that the noble Lord has totally failed to satisfy me. He has once again had to apologise for the failure of the system even to get a letter into my hands. I was in the House last night until nearly 10 o'clock; I arrived here this morning before 10 o'clock. I have not had the letter. What on earth goes on? One finds the noble Lord, Lord Rooker, apologising for his department again and again-we have had that in relation to other issues. I feel sorry for him because it is very difficult to lead a department, which is basically a failed department.

The noble Lord has not answered the question. This three-year period starts next April; the 40 per cent runs from next April. He has described the very limited pilot schemes that will take place before then. I said in Committee, and I say again, I am sure that that is the way ahead, but why only now? This system and its predecessors have been running for years. Why has not anybody thought of letting HM Revenue and Customs, the Department for Work and Pensions and

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the local authorities distribute the leaflets to the targeted households until last year? That is why the amendment refers to the failure of the Government,

"to mobilise its sources of information to target the measures".

It is all very well, if I may say so, for the noble Lord to say, "Of course Ofgem does not have to impose the full 10 per cent". I discussed this with officials yesterday. The answer is,

they say, that if it puts too high a penalty it can be subject to judicial review for being unreasonable. There is no appeal. The only thing that the company can do is to go to the courts on judicial review and say, "This is unfair. This is what we have tried to do, but the Government's system has been so defective that that is why we failed".

Finally, I am not pressing the amendment to a vote because it is right that the Government should be tackling the energy efficiency of the household sector. Most of this order is directed to that. I think that they are guilty of severe maladministration in relation to the priority group, but we do not want to stop the order going ahead for the rest of the household sector. Further, any changes to be made could be made in the Energy Bill, which is before the other place. I think that that is the right way ahead. I beg leave to withdraw the amendment to the Motion.

Amendment, by leave, withdrawn.

On Question, Motion agreed to.