



# Alba Energy Limited

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Terry A'Hearn  
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November 10, 2017

Dear Mr A'Hearn

## **Consultation on SEPA's proposed Environmental Regulation Charging Scheme 2018**

Alba Energy represents independent hydro operators in Scotland.

We are grateful to your team for extending the deadline on responses to this scheme, as Alba Energy has sought to draw its response both from the views of our membership and also from those of the other trade and industry bodies representing small hydro operators. However, we understand from our recent consultation meetings with SEPA that there is pressure to "fast-track" the process to meet internal deadlines. Given the disarray of principles and methodologies to be found in these charges, we urge you, instead, to halt the rush and reconsider the scheme, before it is implemented.

It is clear from discussions with Scottish Renewables, Scottish Land & Estates and the British Hydropower Association (BHA) – who, along with Alba Energy, represent the full spectrum of small hydro operators in Scotland – that there is near unanimity in the industry for the view that the proposed new charging system for small hydro (of less than 2MW capacity) needs to be fundamentally rethought.

As a source of energy that benefits the environment, the small hydro sector has sought to work in effective partnership with SEPA, its principal environmental regulator. To date, the authority of the regulator has been understood and respected. The proposed charging scheme, however, threatens to breach that trust, by levying disproportionate "environmental" fees from providers of environmental benefits – and by making SEPA the financial beneficiary of a fragile rural industry, without clear justification.

Small hydro accepts that it should be accountable for costs resulting from its operations. There is general agreement with the principle of direct costs – the “activity component” in the proposed charging scheme. It is appropriate that small hydro cover the costs of SEPA inspections, enforcement and data returns. What we are protesting, however, are charges for apparent costs to SEPA that do not result from our operations.

There is widespread dismay at indirect costs – the so-called “environmental” component – of the scheme. Prior consultation on this has been misleading and SEPA’s current explanation for environmental charges is so convoluted and opaque that Alba members view it simply as disguised taxation.

The BHA has already provided a technical breakdown of the charging scheme that exposes systematic flaws. Alba Energy fully endorses this analysis. What we wish to provide, here, is a summary of the concerns of independent hydro operators in Scotland.

### **The consultations of 2015 and 2017**

SEPA introduced the Environmental Regulation (Scotland) Charging Scheme in 2016, having first consulted on it in 2015. It was at this initial consultation that the principle of applying “environmental” charges on small hydro was mooted. The consultation was not widely publicised and, at the time, very few hydro operators were aware of it. Meanwhile, industry representatives were informed that costs would amount to a few hundreds of pounds per scheme – a rational accounting of direct costs incurred, it was assumed.

This turned out to be highly misleading. The average amount SEPA now seeks to “recover” from small hydro (from 0.1 – 2MW) has been estimated by the BHA to be £3,056 per scheme, with some proposed charges amounting to the tens of thousands. It is not only the scale of the charges which has caused dismay among hydro operators, but the lack of coherent justification for them. The current (2017) consultation presents itself as working to a principle that has already been accepted. This is not the case. Alba considers this consultation to be based on a false premise.

Not only has the consultation been based on false assumptions, it has also been based on deficient procedures. BHA investigations have revealed that many sites received no communication, others were unable to access the website which explained calculations and – by SEPA’s own methodology – only 20% of the projected charges proved to be correct.

### **Direct charges**

Confidence needs to be restored through a revised process of charging that may be understood by the charge payer. It is Alba’s view that direct – or so-called “activity” charges – are clearly justifiable. Currently, SEPA is proposing charges for the 0.1-2MW hydro sector

of £235 per scheme. Given the inflated scale and false premise of the proposed “environmental” charges, Alba would propose removing those altogether and instead re-calculating the direct charges, to ensure they cover costs actually incurred by SEPA due to the operations of small hydro schemes.

### **Indirect charges**

SEPA is asking for significant contributions towards the costs of running its own organisation (an estimated total of £874,128 annually). If the charging scheme were to be implemented as proposed, it would amount to a levy on small-hydro for SEPA’s research, monitoring and campaign work – work that takes place across broad areas of hydrology and ecology not specifically related to small hydro. Such activities should, by the standards of comparable public bodies, be recovered through general taxation.

However, in order to avoid the terminology of taxation and to justify charges to small hydro, SEPA has sought to conceptualise, instead, an environmental penalty.

Yet, small hydro is not a “polluter”. Abstracted water in a run-of-river hydro system is returned uncontaminated to the watercourse. Most of the projects affected by the proposed charging scheme have been consented in line with well-developed guidance from SEPA, including significant mitigation measures. The issue of a CAR license, paid for by the operator, was confirmation that a development complied with these requirements.

SEPA itself considers small hydro to be of net benefit to the environment. There is no measurable index of local environmental damage by which the regulator can verifiably calculate charges to small hydro. Senior SEPA personnel have themselves commented that the affected reach of a hydro system is not an appropriate measure of its environmental impact, given the mitigation in place.

Rather, during consultation meetings, SEPA has referred to an “abstraction pot”, which it is seeking to fill.

Clearly, there is no direct relationship between what small hydro does and what SEPA wants it to pay. The BHA has identified 2015 as the period of activity when costs were estimated. This “snapshot” was a period of unprecedented activity, the peak of a period during which most of the 286 hydro schemes of the 0.1-2MW range were constructed. This development activity has now reduced to minimal levels, rendering the 2015 snapshot entirely unrepresentative of any routine costs incurred on SEPA by small hydro.

As the BHA comments:

*The costs being sought by SEPA are administrative and seeking to derive them from “environmental” factors distorts the link between the charge and the work.*

## Conclusion

A legitimate relationship between SEPA and small hydro can be developed through a charging system based on direct costs incurred by the industry. This would maintain the arm's-length respectability and authority of the regulator.

Without a material link between charge and activity, however, the regulator is revealed to be raising funds from non-polluting riparian owners and environmentally friendly enterprises. This will corrode the authority of the regulator, break down the relationship with small hydro and threaten the environmental interests they share.

Alba Energy is calling for a brake on SEPA's rush to implement the proposed charging scheme. We propose that this system be rethought, so that the way charges are applied to small hydro are appropriate to small hydro.

By undertaking such a re-think, SEPA would engage the small hydro industry in its entirety and confirm an enduring partnership of environmental interests.

Yours sincerely



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