

ClientEarth press release

For immediate release

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## **Energy bill – Coal & CCS - Today's Commons vote**

### **Committee on Climate Change being ignored by Gov: Coal policy poisoned by E.on influence and fear of EU**

- The Committee on Climate Change (CCC) has stated a "firm limit" on CO<sub>2</sub> emissions needs to be made now to guide future investment in the 2020s and beyond.<sup>i</sup>
- Ed Miliband says the government's future coal framework proposals are "exactly in-line with the Committee on Climate Change"<sup>ii</sup> but the details of the government's proposals contain no guarantee of a firm and legally enforceable limit.
- Government energy policy appears to have been fatally weakened by concessions to large energy companies advocating a future of cheap, dirty coal power.
- The UK also seems reluctant to confront the European Commission on the interpretation of an obscure provision of European environmental law.
- As a result, the government is proposing only to introduce a weak requirement to review its existing coal policy, which it very questionably describes as being the "most ambitious in the world".

## **Energy Bill**

During the third reading of the Energy Bill today the government reaffirmed that it does not support the inclusion of a CO<sub>2</sub> emission performance standard. The government's unwillingness to commit to firm and legally enforceable limits for CO<sub>2</sub> emissions from coal power stations suggests that it is preparing to ignore the advice of the CCC.<sup>iii</sup>

Activist lawyers today highlighted the contrast between the CCC's call for "a firm limit... agreed in advance" on CO<sub>2</sub> emissions from coal power stations in the 2020s, and the clear lack of any legally enforceable limit in government proposals.<sup>iv</sup>

James Thornton, ClientEarth CEO, says: "The lack of clarity in the Government's proposal to introduce a CO<sub>2</sub> emission performance standard once some experience of CO<sub>2</sub> capture technology has been gained is completely at odds with the substance of the CCC's recommendations.

"The CCC has already balanced the security of supply and climate arguments, and said that beyond the early 2020s there must be an end to unabated coal whether or not capture technology succeeds.

"The government must send a clear signal now to future investors in the UK energy sector that only coal power plants meeting stringent legally enforceable emissions standards will be allowed. Given the legal uncertainty a mere statement is not enough.

"Miliband must put in place a policy that demonstrates his commitment to tackling climate change. The disappointment of Copenhagen can be offset by adopting a plan that actually delivers the most ambitious policy on coal in the world.

“To leave the door ajar for a new generation of dirty coal power plants is woefully irresponsible. It is unacceptable to consent a largely unabated coal power station with no legal guarantee that expensive CO<sub>2</sub> capture equipment will ever be retrofitted. In terms of climate damage it is a rabid polar bear: a beast best avoided.”

### **Eon holding sway over government policy**

Unfortunately, UK government policy seems to have been diverted by proposals from E.on, the energy giant that has applied for permission to build a new power plant at Kingsnorth in Kent. A government impact assessment indicates that if carbon capture and storage is considered not to be “on track” in 2018, then a CO<sub>2</sub> emissions performance standard equivalent to an unabated gas plant will be introduced in 2025. This closely echoes proposals put forward by E.on in its response to last year’s government consultation on “clean coal”.<sup>v</sup>

A new framework must provide effective financial incentives for private sector investors. But it must also provide effective safeguards for both the climate and the UK taxpayer. Better CCS projects such as Powerfuel’s 900 MW Hatfield and Scottish Power’s Longannet that are currently considered to be commercially and technically viable should be pursued instead. The Kingsnorth application should not be allowed to distort the market framework that the government is developing.

### **Miliband failing to face down EU on EPS**

In addition to attempting to entice E.on to make a controversial investment decision, there is also an important legal issue that the government must grapple with. The emissions-trading scheme directive falls under the environment chapter of the treaty, and the Treaty on the Functioning of the EU entitles member states to introduce national measures more stringent than those set at the EU level.

Nothing should prevent a Member State from introducing effective laws to fight climate change. However, the European Commission is incorrectly asserting that the ETS directive bars Member States from setting national emissions performance standards (or caps or other emissions limits).

The UK government has said that it disagrees with the Commission’s interpretation. ClientEarth agrees, but considers that it would be reckless to proceed without enacting legislation now that puts the matter beyond doubt. If the UK government is wrong, E.on’s proposed new plant at Kingsnorth would be entitled to emit 8 million tonnes of CO<sub>2</sub> each year indefinitely.

James Thornton continues: “Mr Miliband has acknowledged that energy producers will not deliver ambitious CO<sub>2</sub> emissions reductions without strong government intervention.”<sup>vi</sup>

“But his department’s current policy seems regrettably to have been skewed by industry lobbying. It is not acceptable to rely on the CCS levy and simply write energy companies an open cheque. Regulation will help ensure that only credible clean coal projects are developed and that the UK tax payer gets value for money.

“Ed must demonstrate true political leadership, resist pressure from the energy industry, confront Brussels and resolve now to a legally binding CO<sub>2</sub> emissions performance standard for coal.”

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## Notes to editors

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<sup>i</sup>Page 134 of 1<sup>st</sup> Report of Climate Change Committee laid before Parliament on 12 October 2009 pursuant to Section 36 of the Climate Change Act 2008.

<sup>ii</sup>Environmental Audit Committee, 27 October 2009.

<sup>iii</sup>The Committee on Climate Change, chaired by the influential Lord Adair Turner, is an independent body established by the Climate Change Act 2008 to advise the UK Government on carbon reductions and targets.

<sup>iv</sup>ClientEarth is an organisation of activist lawyers committed to securing a healthy planet. We work in Europe and beyond, bringing together law, science and policy to create pragmatic solutions to key environmental challenges.

<sup>v</sup>Paragraph 89 page 24 of the DECC impact assessment published on 9 November 2009  
[http://www.decc.gov.uk/en/content/cms/consultations/clean\\_coal/clean\\_coal.aspx](http://www.decc.gov.uk/en/content/cms/consultations/clean_coal/clean_coal.aspx)

<sup>vi</sup>Ed Miliband, 2009 Labour Party Conference: *“There is no solution to climate change without a solution for coal. There is a way forward: carbon capture and storage, which traps 90% of CO2 emissions. It will be a multi-billion pound industry of the future and could create 30,000-60,000 jobs in this country. But the idea has been around for ages. The market won’t deliver on its own. So government needs to act. And this Labour government is acting. That’s why in the coming session of parliament, we are proposing to raise billions of pounds to invest in clean coal technology. And so companies can’t just stick with dirty coal, alongside this investment **we are proposing tough environmental conditions for new coal.**”*

ClientEarth brings a radically different approach to the green movement in Europe. We are activist lawyers committed to protecting the living planet for all who dwell on it. We fuse law, science and policy to create strategic solutions to key environmental challenges.

For more information on ClientEarth’s activities, please visit <http://www.clientearth.org>

Or contact:

Mike Haines | Communications officer | ClientEarth

3 Chapel Place, London, EC2A 3DQ

**t.** +44 (0)207 749 5978 | **f.** +44 (0)20 7729 4568 | **e.** [mhaines@clientearth.org](mailto:mhaines@clientearth.org)