

**BRITISH ACADEMY
OF MANAGEMENT**

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CONFERENCE

3RD-5TH SEPTEMBER

ASTON UNIVERSITY BIRMINGHAM UNITED KINGDOM

This paper is from the BAM2019 Conference Proceedings

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Nonmarket strategies in the UK energy sector: why and how?

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Summary

Strategic management scholars have shown an increasing appreciation of the importance of nonmarket strategies, i.e. the firm's actions to influence its environment in order to obtain or maintain economic advantages (Boddewyn, 2003; Baron, 2001). While nonmarket strategy literature has come to special prominence in regulated industries or industries which are impacted by government policies (Lindeque, Lund and McGuire, 2007; Hadani and Schuler, 2013; Hansen and Mitchell, 2000; Holburn and Vanden Bergh, 2008), there are significant empirical gaps in understanding why firms adopt nonmarket strategies and the strategic actions they take (Liedong, Rajwani and Mellahi, 2017; Mellahi et al., 2016b).

This developmental paper uses the Energy Act 2013 as an empirical focus to examine why and how firms use nonmarket strategies. The Act introduced important changes to the UK energy regulatory environment, setting decarbonisation targets, and reforming the electricity market. The paper summarises the results of a 'scoping study' using thematic analysis of publicly available data sources to identify the main features of the nonmarket strategies used by firms to manage the policy and regulatory challenges posed by the new legislation.

Key Words

Nonmarket strategy, legislation, Energy Act 2013

Word Count

1,998 (excluding tables, references and legends)

1. Overview

Nonmarket strategy refers to a firm's actions to influence its environment in order to obtain or maintain economic advantages (Boddewyn, 2003; Baron, 2001). Nonmarket strategy is a means for firms to pursue their strategic goals through political and social leverage, not least through their relationships with regulators, policy makers and political parties (Boddewyn, 2003). More specifically, firms have the ability to either take proactive steps to influence their nonmarket environments, implementing nonmarket activities in anticipation of specific issues, or react to emerging issues and pressures (Mellahi et al., 2016a).

The nonmarket strategy literature has described the ways firms initiate, shape and implement activities in their nonmarket environments. An important way of doing so is by influencing the legislative process, which in turn is a means of mitigating regulatory and policy risks (Meznar and Nigh, 1995). Despite the importance placed on such activities, the literature has failed to provide empirical evidence of 'why' and 'how' firms engage with the legislative process (Lamberg et al., 2004; Lux, Crook and Woehr, 2011; Husted, Allen and Kock, 2015; Baysinger, 1984; Hillman and Hitt, 1999).

This developmental paper is the first stage towards a paper examining non-market activities of energy firms focused on the legislative process leading to the Energy Act 2013. The Act had significant implications for energy companies, setting decarbonisation targets for the UK and reforming the electricity market, as such it was the focus of significant corporate political activity. This paper uses inductive thematic analysis of a range of publicly available data sources. A key aim of this scoping paper is to explore the strengths and weaknesses of those data sources as a means of identifying the main features of the nonmarket strategies used by firms and their industry association(s) to manage the policy and regulatory challenges posed by the new legislation.

2. Methodology

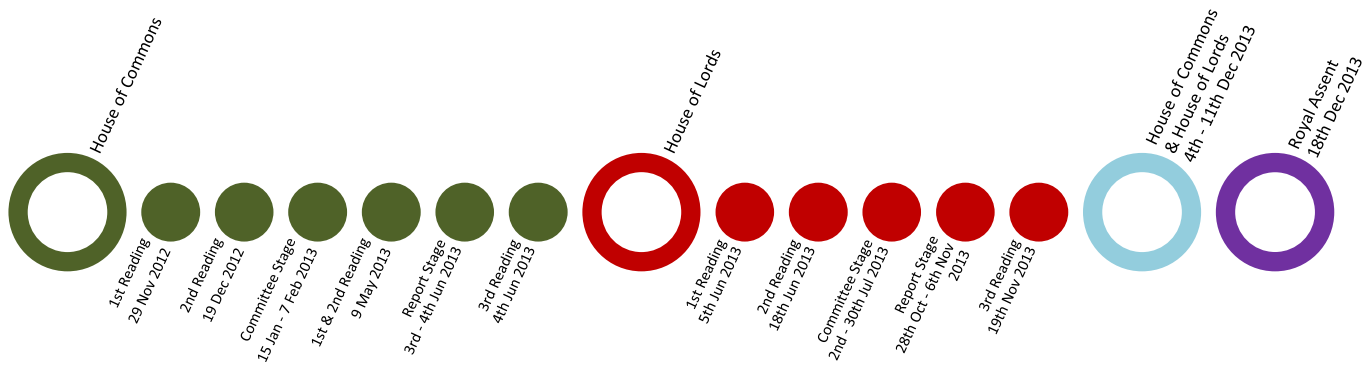
Using the Energy Act 2013 as its focal point, the study compares the nonmarket strategies of firms in three segments of the energy market, i.e. nuclear, gas and wind, reporting emerging themes arising from the collection and analysis of secondary data.

The key data sources for this scoping study have been Hansard (the official report of Parliamentary debates), House of Commons Select Committee minutes and reports, the HM Government's official website (gov.uk), Factiva database, the Civil Service meeting registers and Association of Professional Political Consultants (APPC) register¹.

Before discussing the results, it is worth describing the legislative process in UK since companies engage in different ways at different stages of the legislative process. For the Energy Act 2013, this process began on 29th November 2012, when the notes related to the Energy Bill were introduced in the House of Commons. In February 2013 a version of the bill was discussed in the House of Commons, which was finalised in May 2013. The Bill was then shared with the House of Lords in June 2013, with several amendments suggested in July 2013. In November 2013 the Bill was debated in both House of Commons and House of Lords. Once relevant issues were addressed in December 2013, the Bill received Royal Assent (see Figure 1 below), becoming an Act and therefore law (How does a bill become a law? - UK Parliament, 2019; Bill documents — Energy Act 2013 — UK Parliament, 2018).

¹ Since 2015 a UK Lobbying Register (UKLR) was adopted to largely replace the APPC register. As the Energy Act 2013, preceded UKLR, the APPC register has been used instead.

Figure 1: Bill in the House of Commons & House of Lords



3. Preliminary Results

Corporate political activity plays a key role in nonmarket strategy and includes lobbying, building relations with institutions or key actors and exchange of human capital (also referred to as ‘revolving door’) (Sun, Mellahi and Wright, 2012; McCrain, 2018; Shive and Forster, 2016).

In this section we set out the preliminary results of our analysis of a range of publicly available data, beginning with describing how firms from the three different segments engaged with the legislative process and then considering how they engaged with policy makers throughout the passage of the Bill.

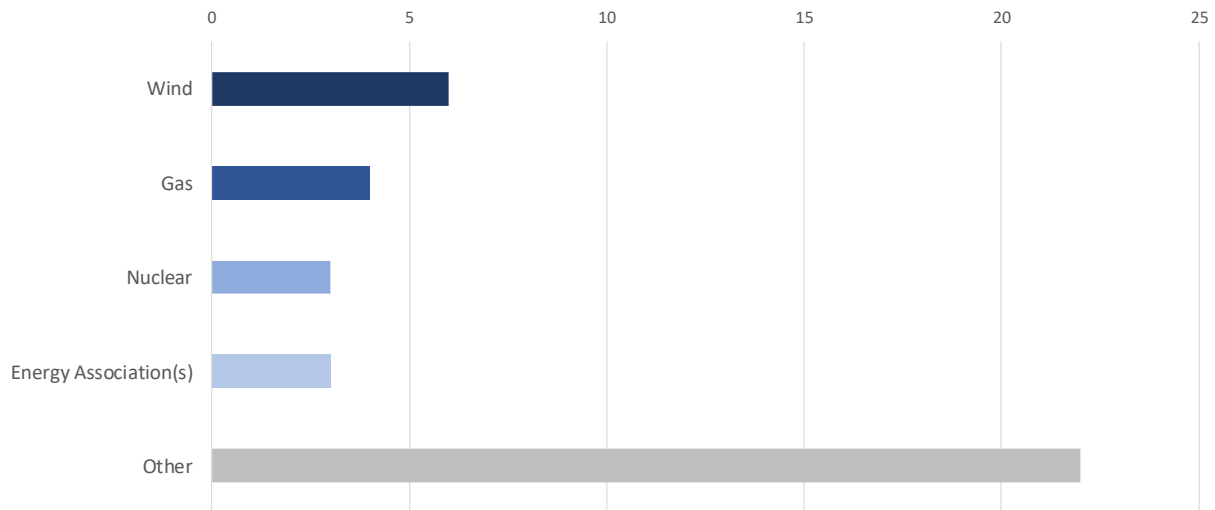
a. Engagement with Legislative Process between 2012- 2013

On 20th December 2012, the House of Commons invited parties with relevant expertise or special interests in energy legislation to submit written evidence to the Public Bill Committee in House of Commons by 12th February 2013.

Analysis of the House of Commons’ records shows that within this two-month period 38 items of formal written evidence were submitted by organisations as diverse as Royal Academy of Engineering, WWF (an environmental non-governmental organisation), Department of Energy and Climate Change and CBI (Confederation of Business Industry – a business association representing approx. 190,000 businesses in UK). Approx. 42% of this written evidence was provided from gas, nuclear and wind firms and their industry associations, such as Vestas Wind Systems, Vattenfall (two of the largest wind energy companies globally), SSE, Centrica (two of UK’s main energy suppliers), EDF Energy (one of UK’s main energy suppliers with significant nuclear energy capability both in the UK and globally), Energy UK and RenewableUK (two of the main energy industry associations in UK).

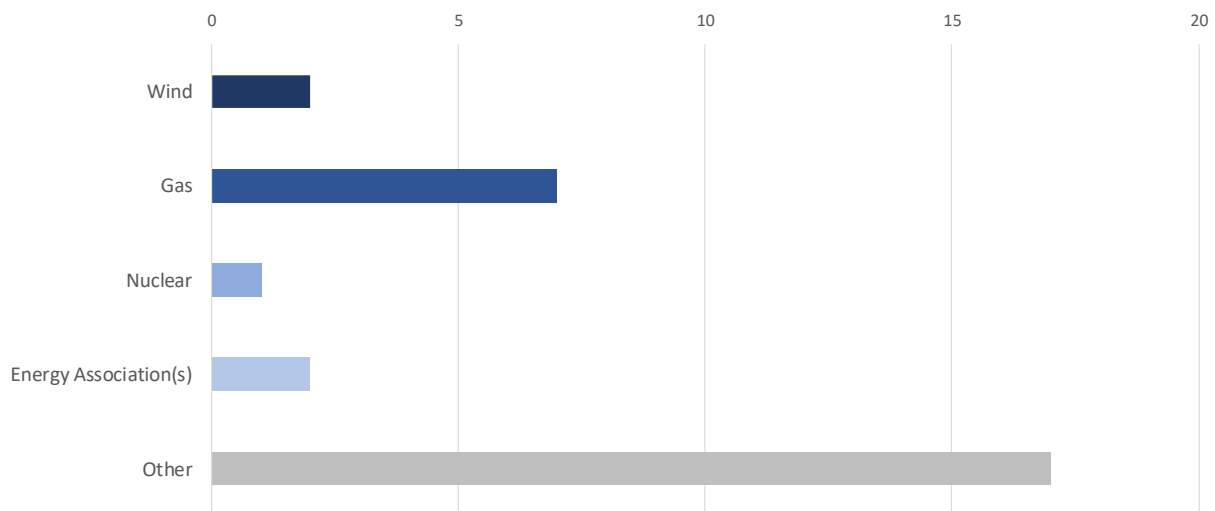
Between the three segments, wind firms submitted the most written evidence, followed by gas, nuclear firms and energy associations (see Graph 1 below) (Bill documents — Energy Act 2013 — UK Parliament, 2018). All firms or individuals who are not clear advocates of specific segments are marked as ‘Other’ (including organisations such as Greenpeace, Safety Directors Forum, Consumer Focus etc.).

Graph 1: Written Evidence to Public Bill Committee



On 15th and 17th January 2013, the Public Bill Committee heard oral evidence from 29 specialists and senior executives from public and private sector firms and academia. During these sessions seven gas firms were interviewed, followed by two wind firms, two energy associations and one nuclear firm (Energy Bill Committee announce evidence programme - News from Parliament - UK Parliament, 2019).

Graph 2: Oral Evidence to Public Bill Committee



During this period the Energy and Climate Change Select Committee, the body tasked to examine and challenge the policies of the Department for Energy and Climate Change (DECC)², conducted pre-legislative scrutiny of the Draft Energy Bill (Role - Energy and Climate Change Committee - UK Parliament, 2019).

To inform this scrutiny the Select Committee engaged with a number of firms and specialists to gather both oral and written evidence. While analysing the Select Committee minutes during 2012-2013, it was identified that most of this evidence was provided between May 2012 to

² Currently known as Department for Business, Energy and Industrial Strategy.

July 2012 with gas firms providing more oral and written evidence compared to the other segments (see Table 1 below).

Table 1: Oral & Written Evidence to Select Committee

Type of Evidence	Wind	Gas	Nuclear	Other ³
Oral Evidence	2	4	2	25
Written Evidence	5	6	5	60

b. Engagement with Policy Makers between 2012- 2013

Lobbying

Nonmarket strategy literature highlights that lobbying is a key way to influence policy makers and their decisions (Meznar and Nigh, 1995). To reflect the level of lobbying activity, we analysed data from the Public Affairs Register.⁴ In 2012-2013, gas firms used lobbying firms more frequently than wind and nuclear segments combined (see Table 2 below) (Public Affairs Register - Public Affairs Board, 2019).

Table 2: Number of Times Lobbying Companies Used Between 2012- 2013

Wind	Gas	Nuclear	Public Sector & Energy Association
17	32	13	6

Meetings with Ministers

While many firms may choose to engage with policy makers through 3rd parties, others may choose to do so directly by meeting with Ministers. To measure this, we analysed data from the Civil Service meeting registers for energy ministers. This indicated that during the same period, gas firms met with energy ministers considerably more (35%) compared to other segments (see Table 3 below). As per the registers, most of these meetings were focused on energy policy, however more detailed information is not available.

Table 3: Meetings with Energy Ministers 2012- 2013

Wind	Gas	Nuclear	Energy Associations
45	71	52	25

³ 'Other' here refers to oil refining, biomass, smart meter firms, and renewable heat policy experts and DECC officials.

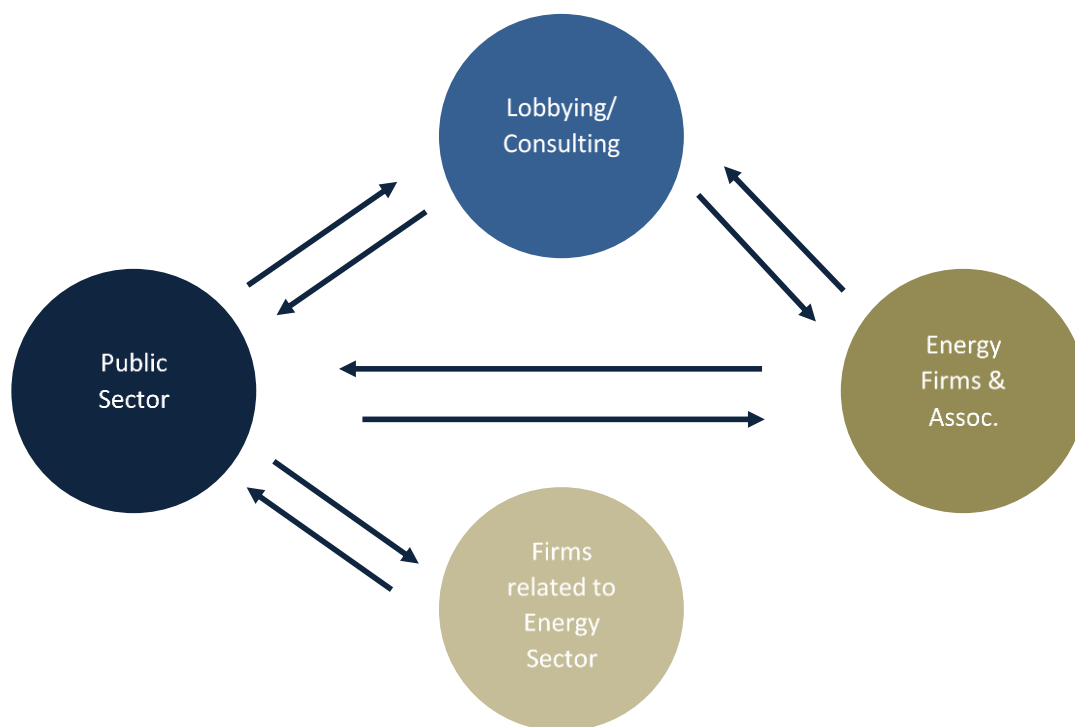
⁴ This is a register of lobbying firm clients maintained by the Public Affairs Board, an association of public affairs and lobbying companies.

‘Revolving Door’

We also explored how senior professionals such as partners of lobbying/consulting firms, special advisers⁵ and ministers, moved between government departments and the private sector around this period. We used data from the Advisory Committee on Business Appointments (ACOBA)⁶, minutes from the Energy and Climate Change Select Committee and firm/media announcements (where required).

Private sector organisations have been categorised in three ways: (i) firms which are focused on lobbying/ consulting, (ii) energy firms and associations and (iii) firms relevant to energy sector, such as firms providing business services and equipment to energy firms (see Figure 2 below). While most movements were explored between private and public sector, this research did not try to identify movements between energy firms/ associations and firms related to energy sector.⁷

Figure 2: Movements of Senior Professionals



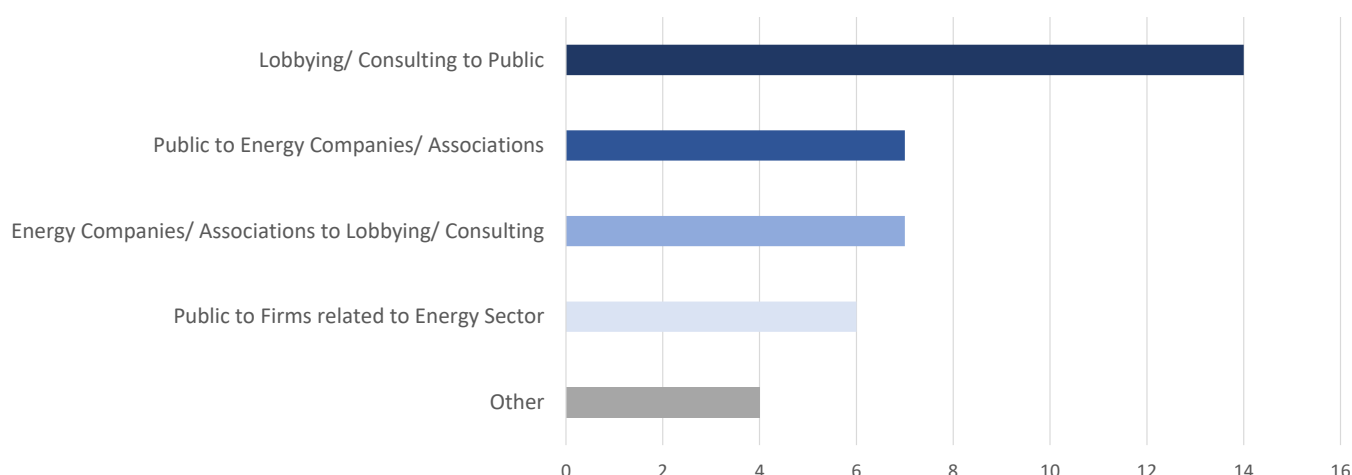
During this period, most senior professional movements took place from Lobbying/ Consulting to Public as shown below in Graph 3. These are significantly higher compared to other categories and could potentially reflect the requirement for expert advice during this period.

⁵ Special advisers are considered as ‘temporary civil servants’, who are appointed by Ministers to advise them on political and other matters.

⁶ ACOBA is a non-departmental public body in the UK which has been set up to provide advice on applications from the most senior Crown servants taking up non-public appointments.

⁷ Such movements are not considered to have a direct impact on engagement with policy makers therefore are not considered relevant to the research objectives.

Graph 3: Detailed Movements of Senior Professionals Between 2012- 2013



c. Engagement with Policy Makers between 2010- 2015

The results discussed so far illustrate nonmarket activities of firms during the period in which the Energy Bill was passing through the legislative process. However, they cannot in themselves explain whether these activities were stimulated by the Energy Act 2013 or whether they simply constitute business-as-usual interactions between private and public sector. If these activities were related to some extent to the policy-making process, we would expect to see an increase in the relevant activities corresponding to the passage of the Bill. To explore this, the data collection and analysis expanded to cover the period between 2010- 2015.

Lobbying

Over this 6-year period, gas firms used more frequently lobbying companies than wind/ nuclear and energy associations did combined (see Table 4 below).

Table 4: Number of Times Lobbying Companies Used Between 2010- 2015

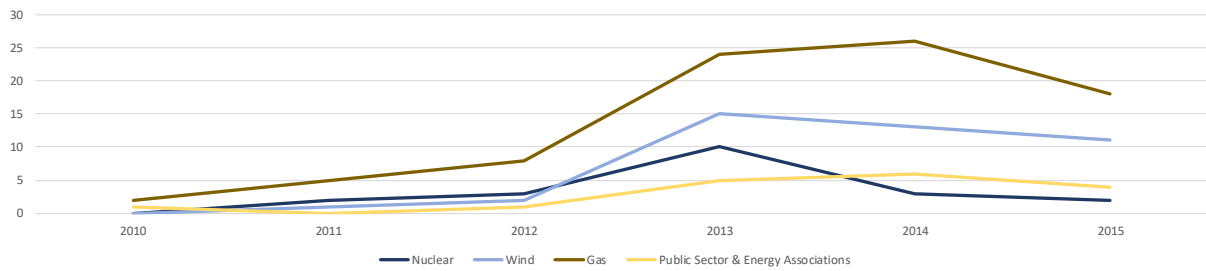
Wind	Gas	Nuclear	Public Sector & Energy Association
42	83	20	17

The results indicate an increase after 2012, with nuclear and wind seeing their maximum use of lobbying firms in 2013. On the other hand, gas firms increased the use of lobbying firms in 2014 (see Graph 4 below). This is expected due to shale gas being introduced to the wider UK public at the time⁸.

⁸ For more information:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/358521/Government_Response_FINAL.pdf

Graph 4: Number of Times Lobbying Companies Used Between 2010- 2015



Meetings with Ministers

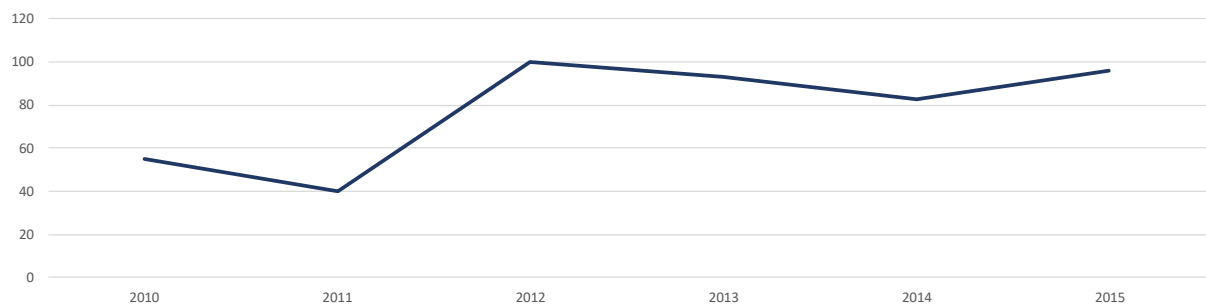
Similar to the 2012-2013 period, between 2010-2015⁹ gas firms met most times with energy ministers to discuss energy policy matters (see Table 5 below). While comparing meetings with energy ministers and the number of times lobbying companies were used during this period, it is clear that in both cases most of the activity was driven by gas firms.

Table 5: Meetings with Energy Ministers 2010- 2015

Wind	Gas	Nuclear	Energy Associations
86	185	150	46

During this period total meetings across all segments seem to have increased in 2012, reduced slightly until 2014, when they started increasing again (see Graphs 5 & 6 below). This is expected due to two reasons: (i) shale gas being a focus area for public and private sector in 2014 and (ii) firms initiating engagement with ministers before the next Energy Act, i.e. Energy Act 2016.¹⁰ The data reflects a potential correlation, where the engagement by nuclear firms starts reducing, whereas gas, wind and energy associations increase their engagement again post-2014.

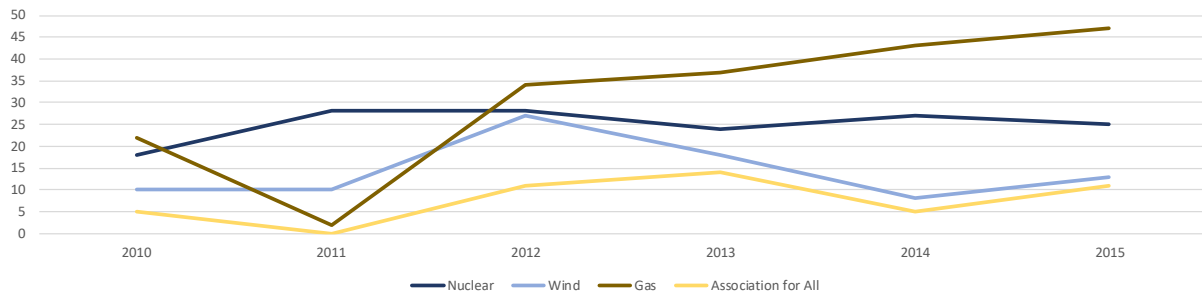
Graph 5: Total Meetings with Energy Ministers Between 2010- 2015



⁹ Although all publicly available data sources were exhausted, ministerial meetings in 2011 were not fully available. This was mitigated by expanding the search to include other sources such as freedom of information documents, minutes captured by firms or associations, travel registers etc.

¹⁰ This Act transferred consent power for onshore wind farms to councils and created the new Oil and Gas Authority.

Graph 6: Meetings Per Segment with Energy Ministers Between 2010- 2015

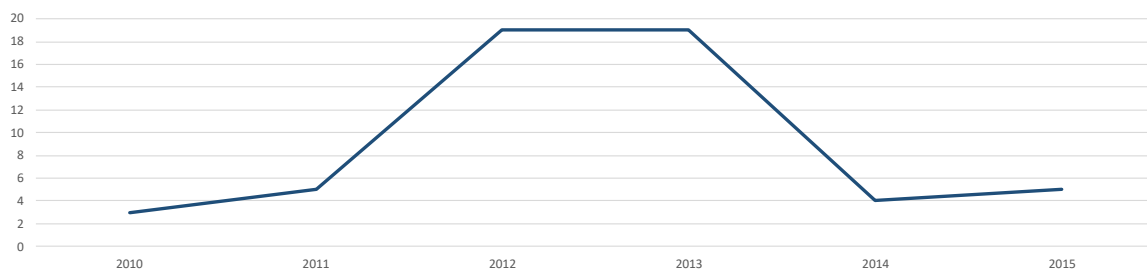


‘Revolving Door’

The data exploration highlights an increase in senior professionals moving through the revolving door, i.e. between government and the industry, during the period 2012-2013.

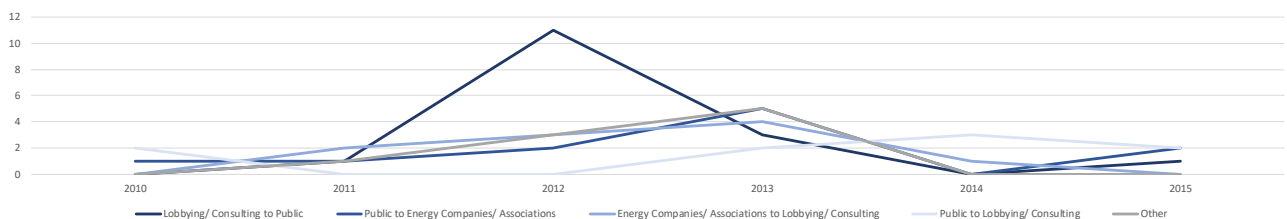
Between 2012- 2013 there is an increase and stable number of movements between public and private sector. After this period, this number reduces to approx. pre-2012 levels, potentially indicating a correlation between the Energy Act and increased number of senior professional movements (see Graph 7 below).

Graph 7: Total Movements of Senior Professionals Between 2010- 2015



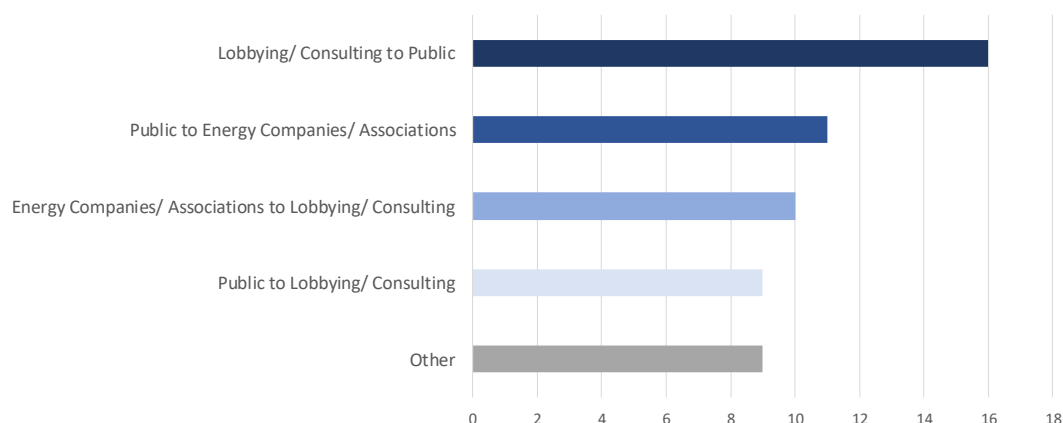
During the 6-year period, most movements took place from Lobbying/Consulting to Public, with the most significant number of movements taking place in 2012 (see Graph 8 below).

Graph 8: Movements of Senior Professionals Between 2010- 2015



These movements can be found in more detail in Graph 9 below. When comparing the 6- year with the 2-year results as most movements from Lobbying/Consulting to Public took place during 2012-2013, there is not a significant increase in this category’s total values. However, some of the other categories are slightly different, e.g. more movements from Public to Lobbying/ Consulting were observed during the 6-year period compared to the 2-year one. This may be due to some senior officials and ministers completing their tenure within the relevant department(s) after 2014 and subsequently accepting roles in Lobbying/ Consulting.

Graph 9: Detailed Movements of Senior Professionals Between 2010- 2015



d. Summary

Based on the preliminary results, this research has identified several useful insights, but also includes few key limitations.

While all segments engaged both with the legislative process and policy makers, wind firms seem to have engaged with the process primarily through written evidence. Gas firms on the other hand seem to have engaged with the process and policy makers primarily through lobbying firms during the legislative period. During this period, there were a significant number of senior professional movements from lobbying/ consulting to public sector. The analysis highlighted that movements between lobbying/ consulting firms and public sector may be more frequent for certain professionals, such as special advisors.

The secondary data analysis only describes how firms across the three segments engaged both with the process and policy makers. However, due to other factors underlying this data, such as shale gas being debated at the time or firms preparing for the following legislation, this paper cannot assume causality between the Energy Act and increased activity during the legislation period. In an attempt to derive a better understanding behind the causal factors on engagement with the process and policy makers, the next stage of this research will focus on face-to-face interviews, develop the context around the data presented here and derive evidence-based hypotheses for further research.

4. BAM Conference Expectations

At the BAM conference, this paper will seek guidance from colleagues to:

- Validate the importance and direction of this research;
- Improve any aspects which are open to challenge;
- Provide inputs which will enhance the methodological approach.

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