

From: MCCREATH Gordon [<mailto:Gordon.McCreath@pinsentmasons.com>]
Sent: 19 November 2015 14:08
To: Hornsea2
Cc: FOX Matthew
Subject: Hornsea 2 - E.ON E&P [PM-AC.FID2203580]

Dear Mrs King,

As you know, we act for E.ON E&P UK Limited ('E.ON') as an interested party in the Hornsea 2 DCO examination.

Further to your discussions with Matthew Fox, we understand that the Examining Authority does not propose to call a further hearing prior to the end of the examination on 16 December.

We would be grateful if this decision could be reconsidered. While we entirely accept that the decision is a matter for the Examining Authority, in our submission, following the Deadline 5 submissions of both the Applicant and E.ON E&P UK Ltd ('E.ON'), a hearing to explore the complex issues that arise between us is necessary in order for the matter to be properly examined. The discussion at the issue specific hearing on 27 October was time limited. Without a further hearing there is a danger that those complex issues are not fully understood, affecting the ultimate decision. Calling a hearing would ensure that the issues were adequately examined, that both parties had a fair chance to put their case, and that all of the facts and evidence are fully explored.

We understand that it was mentioned in your discussions with Matthew that Tuesday was the last day in which the Examining Authority could have called such a hearing. We believe, however, that the option of calling a hearing is still open to the Examining Authority. Indeed as we explained at the issue specific hearing on 27 October and in our covering letter for Deadline 5, it was with that in mind that we had planned to make detailed submissions at Deadline 5, if agreement had not been reached by then.

We believe that a hearing can still be called for the following reasons:

1. Rule 13(3) of the Infrastructure Planning (Examination Procedure) Rules 2010 sets out that the Examining Authority must notify all interested parties of an issue-specific hearing and ensure that at least 21 days is given of any hearing.

Whilst the Rules do not prescribe these 21 days to be 'clear' days, we understand that it is usual practice of PINS to allow for this. Given that the last day of the Examination is 16 December, 21 clear days from this date would be 24 November.

There is therefore sufficient time for the Examining Authority to call a hearing. It is appreciated that the Examining Authority may wish to leave sufficient time for parties to produce written material after these hearings, and so we would suggest that a hearing notice of which is given this week could allow for this. If this was done, we expect that the Examining Authority would issue the necessary amendments to the examination timetable as a procedural decision under Rule 9.

2. We note that Rule 13(6) indicates that the applicant must also publish and post 21 days' notice of the hearing. However, this is subject to the fact that the Examining Authority 'may direct' a lesser amount of days. It therefore seems that, even catering for newspaper deadlines for publication, a direction could be made that would likely allow for over two weeks' notice.

We also consider that such a direction would be reasonable as the issues between the two parties are of interest primarily for the existing interested parties who are already participating in the examination. Those parties would receive an electronic copy of the notice from PINS under Rule 13(3) as soon as it was issued. Reasonable public notice would be achieved via the notices and advertisement required by the Applicant, as directed by the Examining Authority.

We hope that this is useful in helping the Examining Authority reach its decision. We would be happy to discuss any aspect. We would also be grateful if you would confirm the decision of the Examining Authority in due course.

Yours sincerely

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