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Our Ref 84594517.1\cb57\647106.07000

Giles Scott
Department for Business, Energy & Industrial
Strategy
1 Victoria Street
London SW1H 0ET

15 June 2017

Dear Mr Scott

**PLANNING ACT 2008 AND THE INFRASTRUCTURE PLANNING (EXAMINATION
PROCEDURE) RULES 2010**

**APPLICATION BY WREXHAM POWER LIMITED ("THE APPLICANT") FOR AN ORDER
GRANTING DEVELOPMENT CONSENT FOR THE WREXHAM ENERGY CENTRE PROJECT
(REFERENCE EN010055)**

**RESPONSE TO REQUEST FOR COMMENTS FROM THE APPLICANT AND OTHER
ADDRESSEES ON THE APPLICATION FOR THE PROPOSED WREXHAM ENERGY
CENTRE PROJECT**

We write in response to your letter dated 8 June 2017.

As set out in our letter dated 24 May 2017, the Applicant and Wales and West Utilities (WWU) have agreed the form of protective provisions to be included in Part 6 of Schedule 9 to the draft DCO. The agreed version of the protective provisions was sent to PINS on 15 May 2017. On 15 May 2017, WWU's solicitors (Osborne Clarke) also confirmed to PINS that the protective provisions were agreed.

The agreed protective provisions were included in the draft DCO (Revision 8) submitted to PINS on 24 May 2017. The agreed protective provisions address the concerns raised by WWU during the Examination in relation to its proposed security fencing.

WWU confirmed in its letter dated 24 May 2017 that it has appointed land agents and solicitors and that detailed heads of terms for the agreement for lease will be provided to the Applicant soon. However, the Applicant understands that WWU will not formally withdraw its objection to the Application until the agreement for lease of plot AG11 has been completed.

Whilst it is the Applicant's intention to enter into a voluntary agreement for lease with WWU in respect of plot AG11, the Applicant maintains its position that plot AG11 can be compulsorily acquired and not replaced without serious detriment to the carrying on of WWU's undertaking.

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This position is supported by the fact that WWU confirmed during the Examination that it was willing to grant the Applicant a lease of plot AGI1. For example, in its submission dated 14 November 2016 (Examination Library Reference AS-00) WWU confirmed that in respect of "*the possible grant of lease to Wrexham Power we have undertaken our rental valuation*" and in its submission dated 12 January 2017 (Examination Library Reference REP8-003), WWU stated that "*WWU will not object to the compulsory acquisition or temporary possession on the basis that, and subject to, WWU and the Applicant agreeing both a commercial lease agreement and protective provisions...In respect of the commercial agreement both WWU and the Applicant have discussed this and are comfortable that this can be concluded after the determination of the [DCO]...*"

WWU's letter dated 24 May 2017 confirms that WWU continues to be willing to lease plot AGI1 to the Applicant as it is "*close to providing Wrexham Energy with detailed Heads of Terms*". The Applicant also received an email on 6 June 2017 from Fisher German, WWU's agents, confirming that they are instructed by WWU to agree the terms of the lease. The Applicant responded on 9 June 2017, however, as at the date of this letter, the Applicant is still waiting for the detailed Heads of Terms referred to in WWU's letter of 24 May 2017 and Fisher German's email of 6 June 2017. This correspondence clearly demonstrates that the use of plot AGI1 by the Applicant will not cause serious detriment to the carrying on of WWU's undertaking.

The protective provisions agreed between the Applicant and WWU and set out in Part 6 of Schedule 9 of the draft DCO (Revision 8) provide sufficient protection for WWU's apparatus, including the proposed security fence. The land and rights over land set out in the Book of Reference are necessary for the purposes of carrying out the development and, as demonstrated in the Examination and through the extracts above, can be compulsorily acquired without serious detriment to the carrying on of WWU's undertaking.

The Applicant therefore submits that the tests set out in sections 127(3)(a), 127(6)(a) and 138(4) of the Planning Act 2008 have been satisfied and the Secretary of State can therefore include provision in the DCO authorising the compulsory acquisition of WWU's land and new rights over WWU's land.

We should be grateful if you would confirm receipt of this letter.

Yours sincerely

Pinsent Masons LLP