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To:  
By email only:

Your Ref:

Sembcorp Utilities (UK) Limited &  
The Environment Agency

Date: 4 February 2019

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Dear Sir/Madam,

**Planning Act 2008 and The Infrastructure Planning (Examination Procedure)  
Rules 2010**

**Application by Sembcorp Utilities (UK) Limited (“the Applicant”) for an Order  
granting Development Consent for the proposed Tees Combined Cycle Power  
Plant (“CCPP”) Generating Station**

**REQUEST FOR COMMENTS FROM THE APPLICANT AND ENVIRONMENT  
AGENCY ON THE APPLICATION FOR THE PROPOSED TEES CCPP GENERATING  
STATION**

Following the completion of the examination on 10 October 2018, the Examining Authority (“ExA”) submitted a Report and Recommendation in respect of its findings and conclusions on the above application to the Secretary of State on 10 January 2019. In accordance with section 107 of the Planning Act 2008, the Secretary of State has three months to determine the application.

There are issues on which the Secretary of State would be grateful if parties identified in **bold** could provide further clarification and information:

**Inconsistent reference in application documents to “gross” and “net” electrical capacity, including in the draft Development Consent Order (“the Order”) considered during the examination.**

The Secretary of State has identified that the Applicant has been inconsistent in references to the electrical capacity of the proposed generating station in the application documentation submitted. For example, the Application Form refers to a generating station of “*up to 1,700MW gross output capacity*”, whilst its covering Application Letter of 22 November 2017 refers to a generating station with “*a nominal net electrical output capacity of up to 1,700MW*”. Further, the Environmental Statement Non-Technical Statement does not specifically refer to either “*net*” or “*gross*”, but describes the development as having “*an output capacity of up to 1,700MWe*”.

These inconsistencies in the use of gross and net electrical capacity in the application documents were not raised by any party during the examination.

It is not clear to the Secretary of State therefore, if the references to net capacity are simply drafting errors. However, if the references to net capacity are intentional, there appears to be no indication of what the gross electrical capacity of the proposed development would be and how this relates to the net capacity. Clarity on these points is necessary in order to understand the basis of the Carbon Capture Readiness (“CCR”) assessment and other assessments contained in the Environmental Statement which refer to capacity of the proposed development. **The Applicant** is offered the opportunity to comment on this.

The Secretary of State notes that the Carbon Capture Readiness Guidance<sup>1</sup>: which is applicable to the application, is relevant to applications for generating stations of the type proposed with “*an electrical generating capacity at or over 300 MW (gross capacity...)*”<sup>2</sup> [underlining added]. The Secretary of State therefore considers that the CCR assessment of an application for a generating station made under the Planning Act 2008 would be on the basis of its gross

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<sup>1</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/43609/Carbon\\_capture\\_readiness\\_-\\_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/43609/Carbon_capture_readiness_-_guidance.pdf)

<sup>2</sup> <https://www.gov.uk/guidance/consents-and-planning-applications-for-national-energy-infrastructure-projects#carbon-capture-readiness-ccr>

electrical capacity rather than its net capacity so that it is assessed on a worst case scenario.

In particular, it is noted that Requirement 29 in the draft Development Consent Order submitted at a late stage during the Examination by the Applicant in close consultation with the Environment Agency, would allow construction of a generating station with “*a net electrical output of up to 1,700MWe*”. It would also impose an operational restriction, stating that the generating station “*must not be operated at a net electrical output of more than 1520MWe until such time as the Applicant can demonstrate there is sufficient space within the Order limits to comply with the land footprint requirement for the retrofitting of appropriate capture equipment for a generating station with a net electrical output of up to 1700MWe*” [underlining added].

In order to inform the Secretary of State’s decision, **the Environment Agency** is requested to confirm the basis for its assessment of CCR requirements to enable him to consider whether the draft Requirement 29 is appropriately drafted and suitable for inclusion in any DCO which may be granted. **The Applicant** may also wish to comment.

## **Habitats Regulations Assessment**

### The Applicant’s In-combination Assessment

The ExA’s second written questions asks the Applicant to further explain how, in the absence of a quantitative in-combination assessment, it is possible to conclude that the proposed development will not have a likely significant effect on any European Site. In response the Applicant stated that in-combination effects are anticipated to be insignificant, given that only the Tees Renewable Energy Plant, will be operating [concurrently], and, because the two projects would not be co-located, any impacts are likely to arise at different locations. However, it is noted that in the Applicant’s No Significant Effect Report, reference is made to two other proposed developments with the potential to impact on air quality, but these were not referenced in the Applicant’s response to the second written questions:

- North Sea Pipelines Ltd (ConocoPhillips) CCGT/CHP facility at SealSands, north of the Tees;

- The MGT biomass facility south of the Tees.

In view of this apparent omission, **The Applicant** is invited to provide any additional information on these projects that could be used to inform the Secretary of State's HRA.

#### Effect of air pollutants on extensions to European sites

At deadline 7 the Applicant provided an HRA addendum to consider new extensions to the Teesmouth and Cleveland Coast SPA and Ramsar sites. It is noted that the values presented in this report differ from the values presented in the Applicant's No Significant Effects Report, but the information provided to account for these differences is limited. Table 3 of the HRA Addendum identifies an annual mean Process Contribution (PC) for NO<sub>x</sub> of 0.374 µg m<sup>-3</sup> (1.25% of the Critical Level) at the pSPA; whereas previously, the Applicant's No Significant Effects Report (Table 3) identified an annual mean PC for NO<sub>x</sub> of 0.283 µg m<sup>-3</sup> (<1% of the Critical Level) at the pSPA. In addition, the background level of NO<sub>x</sub> for the pSPA is identified as 19.3 µg m<sup>-3</sup> in Table 3 of the HRA Addendum [REP7-004]; whereas the background level of NO<sub>x</sub> for the pSPA is identified as 31.8 µg m<sup>-3</sup> in Applicant's No Significant Effects Report (Table 3). **The Applicant** is invited to provide information to account for these increases, and any other differences that exist between the two reports.

**The deadline for a response is Monday 18 February 2019.**

The response should be submitted by email to: [TeesCCPP@pins.gsi.gov.uk](mailto:TeesCCPP@pins.gsi.gov.uk)

Please also send any hard copy response to the Tees CCPP Project Team, Secretary of State for Business, Energy and Industrial Strategy, c/o the Planning Inspectorate, Eagle Wing 3/18, Temple Quay House, Temple Quay, Bristol, BS1 6PN. If you will have difficulty in submitting a response by the consultation deadline, please inform the Project Team as soon as possible.

Responses will be published on the Tees CCPP project page of the Planning Portal website as soon as possible after 18 February 2019.

This letter is without prejudice to the Secretary of State's decision whether or not to grant development consent for the Tees CCPP project, and nothing in this letter is to be taken to imply what that decision might be.

Yours faithfully

Gareth Leigh  
Head of Energy Infrastructure Planning