

**21 October 2024**

**THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010**

**FIVE ESTUARIES OFFSHORE WIND FARM PROJECT**

**Written Representation on behalf of National Grid Electricity Transmission Plc**

**OUR REF: 20049242**



Bryan Cave Leighton Paisner

**Bryan Cave Leighton Paisner LLP**

Governor's House 5 Laurence Pountney Hill London EC4R 0BR  
Tel: +44 (0)20 3400 1000 Fax: +44 (0)20 3400 1111

## **Written Representation of NGET (National Grid Electricity Transmission Plc) in respect of the Five Estuaries Offshore Windfarm DCO (the "Project")**

This written representation is submitted on behalf of National Grid Electricity Transmission Plc ("NGET") in respect of the Project. In NGET's Relevant Representation we set out that NGET do not have any existing apparatus within the Order but that there are two future projects that interact with the Project, namely the Norwich to Tilbury Project and the Sea Link Project, which are critical to distribution of energy across the UK as part of the Great Grid Upgrade for the reasons explained in our Relevant Representation.

In relation to the Interaction with the Norwich to Tilbury Project, NGET accept that until the Norwich to Tilbury Project is under construction that they do not have any existing assets requiring protection in the Order Land. Accordingly NGET have now accepted that in the specific circumstances of this DCO, NGET do not require standard template protective provisions for the benefit of NGET to be incorporated in this DCO for the protection of any existing assets beyond the Norwich to Tilbury Scheme.

### **Overlap between Projects – Co-operation Agreement**

NGET will however require protection of its infrastructure and land interests in the EACN area (namely plots 17.031, 18.001 and 18.002) of the Project and to reach agreement with the Applicant in respect of other areas of interactions between the Project and the Norwich to Tilbury Project. As indicated at Relevant Representation Stage the parties are co-operating with each other to work up a "*Co-operation Agreement between the parties to govern the interactions between the parties in respect of the three interacting projects in particular in terms of issues such as Traffic and Transport Interactions and Site Access, Landscape and Visual Interactions and operational noise, drainage as well as other construction related interfaces*". The parties continue to negotiate the terms of the Co-operation Agreement and are making good progress.

### **Overlap between Projects – overlapping CA powers in the EACN area**

In addition to concluding this co-operation agreement the parties are looking at drafting some bespoke protective provisions to include in the dDCO to address the overlap of CA Powers in the EACN area to ensure that both NGET's infrastructure and land rights (required to safely maintain the infrastructure) will have adequate protection. It is anticipated that an update and an agreed position statement along with wording for the bespoke Protective Provisions will be agreed and submitted to the Examining Authority at or before deadline 4.

As noted at Relevant Representation Stage: "*the Project will include the ability to compulsorily acquire rights over the land within which the EACN will be constructed to allow the projects to get their cables to the connection points which will be specified by NGET following detailed design. As those connection points are not yet known, the rights are sought over the whole area to allow flexibility to route the cables as required to meet the then current standards*".

NGET accepts that this position is necessary for the Applicant, given that the detailed design of the NGET substation is not yet fixed and the connection point (and accordingly the cable corridor through the EACN area) is not yet known. However NGET also needs to ensure that their ability to construct, operate and maintain the NGET substation and other infrastructure in the EACN areas is not frustrated. Furthermore a commercial connection agreement is also in place which manages the connection within the substation footprint and accordingly the rights sought over the EACN will only apply to the boundary of the substation footprint (once known) and this is agreed in principle with the Applicants (and North Falls).

As set out at Relevant Representation Stage; *“the Projects have agreed to enter into reciprocal protective provisions to secure the delivery of both projects. These provisions provide each undertaker sufficient protection from overlapping development consent and compulsory acquisition powers, providing sufficient assurance to each Examining Authority and the Secretary of State that each DCO can be granted as sought. **The detail of these protections now needs to be worked up and agreed between the parties**”.*

Since the Relevant Reps stage it is understood that a broad level of agreement with the Applicants (and North Falls) has been reached. Accordingly, it is NGET’s position that the bespoke Protective Provisions and/or the Co-operation Agreement will need to provide for the following in relation to the overlap of CA powers in the EACN area:

- The Applicant will not exercise CA powers to acquire any land/interest in any areas where NGET own land/rights or have apparatus owned by NGET in the EACN area without agreement with NGET,
- The Applicant will not exercise CA powers to acquire any land/interests or any apparatus of NGET within the footprint of the NGET substation boundary (once known),
- NGET will keep the Applicant (and North Falls) apprised of the work towards finalising the design and location of the NGET substation and other NGET apparatus within the EACN area and to identify the final location of the Applicants connection bay and therefore to agree the connection point, cable route, extent of rights and access routes/easement which the Applicant requires over the EACN area. Thereafter the Applicant will accordingly draw down only the necessary extent of rights over the EACN area by CA powers as required for their cable corridor and access,
- In circumstances where construction programmes, timescales and expiry of Temporary Possession powers under the Applicants DCO, means that the Applicant needs to acquire permanent rights over the EACN area before the final design of the NGET substation is known, the parties agree that the Applicants will seek CA rights over the whole EACN area subject to the following proviso’s: -
  - (a) The Applicants will not seek the rights to remove any NGET apparatus under Schedule 7 National Grid substation works area rights (1 Y) namely the power:

*“install, alter, re-lay, maintain, protect, adjust or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers)”*,
  - (b) Where the Applicants seek rights over the whole of the EACN area, it is agreed that NGET will then override/remove the rights over any unnecessary areas under their own DCO (at nil additional compensation to the Applicant) to avoid any conflicts with NGET land rights and apparatus required in the EACN area,
  - (c) The Applicant (and North Falls) will not seek any protective provisions or other protection in the NGET DCO, which contravenes or prevents (b).
- At all times whilst working in the EACN area or using temporary possession powers in this area the parties will need to work together to co-ordinate access and use of the EACN area to avoid conflicts, this is expected to be secured through the co-

operation agreement and future interface agreements between the parties on construction working.

- NGET will require the co-operation agreement or bespoke Protective Provisions to ensure that (j) when the Applicants or North Falls are working in the EACN area they comply with NGET's requirements for working in close proximity to NGET assets and all necessary plant protection sign off processes for safety reasons. NGET also require their standard indemnity in respect of work in this area and their standard insurance and surety provisions to ensure adequate protection for the NGET assets being constructed as part of the Norwich to Tilbury Project within the EACN area.

### **Sea Link**

Finally in addition an agreement to put in place a future crossing agreements to govern the offshore crossing in respect of the Sea Link Project and the Project is likely to be required.

### **Conclusion**

NGET reserves the right to make further representations as part of the Examination process in relation to specific interactions with it's Norwich to Tilbury and Sea Link Projects as negotiations continue but in the meantime will continue to liaise with the Applicant with a view to reaching a satisfactory agreement during the DCO Examination and will keep the Examining Authority updated in relation to these discussions and in particular the terms of bespoke protective provisions required to be incorporated into the Order on or before Deadline 4.

**Bryan Cave Leighton Paisner LLP**

**For and on behalf of National Grid Electricity Transmission Plc**

**21 October 2024**