

## THE NORTH LINCOLNSHIRE GREEN ENERGY PARK PROJECT

### DEADLINE 2

15 DECEMBER 2022

#### 1. INTRODUCTION

- 1.1 We act for Cadent Gas Limited (**Cadent**).
- 1.2 The draft DCO (**dDCO**) for The North Lincolnshire Green Energy Park project (**the Project**) being promoted by the North Lincolnshire Green Energy Park Limited (the **Promoter**) contains development which may affect Cadent's apparatus. Cadent has identified the following apparatus within the redline boundary or within the vicinity of the proposed works:
  - 1.2.1 High Pressure (above 2 bar) Gas Pipelines and associated equipment;
  - 1.2.2 Medium Pressure mains and associated equipment; and
  - 1.2.3 Low Pressure mains and associated equipment (the **Apparatus**).
- 1.3 Cadent is the holder of a gas transporter licence (the **Transporter Licence**), granted pursuant to section 7 of the Gas Act 1986 (the **1986 Act**). Cadent owns and maintains the gas distribution network in the North West, West Midlands, East Midlands, the East of England and North London. The Apparatus forms part of Cadent's gas distribution network.
- 1.4 Cadent is required to comply with the terms of its Licence in the delivery of its statutory duties. It is regulated by the Network Code which contains relevant conditions as to safe transmission of gas and compliance with industry standards on transmission, connection and safe working in the vicinity of its Apparatus.
- 1.5 This submission is made on behalf of Cadent in response to the Examining Authority's (**ExA**) first round of written questions.
- 1.6 For the purposes of the Planning Act 2008 and section 127, Cadent is a statutory undertaker and the land included within the order limits is statutory undertakers' land. Cadent require the protective provisions secured within the DCO to be in their preferred form to ensure that there is no serious detriment to the carrying on of Cadent's undertaking.
- 1.7 Cadent is not satisfied at this stage that the current proposed scheme is deliverable taking into consideration the impacts to Cadent's Apparatus and rights of access to maintain its network. Cadent's position is that the design of the Project should be amended to remove solar panels from areas where Cadent's Apparatus is situated. This can be achieved by the imposition of an exclusion zone within the work plans which identifies an area where solar panels cannot be located in order to preserve the integrity of the gas network or by allowing Cadent to refuse approval for works that would cause interference with or risk of damage to its Apparatus or prevent access to its Apparatus at any time in order avoid serious detriment to Cadent.
- 1.8 We make this submission further to Cadent's section 42 consultation response dated 16 August 2022. Cadent set out its requirements for adequate protection in that response.

## 2. QUESTION 7.0.11

- 2.1 The dDCO does not include adequate protection for Cadent's apparatus and the gas distribution network. It does not include the specific protection provisions that Cadent requires to prevent serious detriment to his undertaking.
- 2.2 Cadent require all promoters carrying out development in the vicinity of their Apparatus to comply with various guidelines including: GD/SP/SSW22 – Safe Working in the vicinity of Cadent High Pressure's Gas Pipelines and Associated Installations; IGE (Institution of Gas Engineers) recommendations IGE/SR/18 Edition 2 Safe Working Practices to Ensure the Integrity of Gas Pipelines and Associated Installations; and the HSE's guidance document HS(G)47 Avoiding Danger from Underground Services.
- 2.3 The industry standards referred to above have the specific intention of protecting: the integrity of the pipelines and thus the distribution of gas; the safety of the area surrounding gas pipelines; and the safety of personnel involved in working with gas pipelines.
- 2.4 Cadent requires specific protective provisions in place for an appropriate level of control and assurance that the industry regulatory standards will be complied with in connection with works in the vicinity of Cadent's Apparatus.
- 2.5 Cadent's preferred form of protective provisions are included at Appendix 1 (the **Cadent Protective Provisions**). The Cadent Protective Provisions are in Cadent's standard form and have been developed to afford full protection to Cadent and its undertaking.
- 2.6 Cadent will not accept under any circumstance solar PV panels to be installed within the pipeline easement area. This would restrict access to the pipeline in the future and Cadent requests that the design is amended to remove any PV solar panels from existing Cadent easement strips. Under the protective provisions, Cadent will require clarity to ensure that it is entitled to refuse any works that would:
- 2.6.1 cause interference with or risk of damage to its apparatus; or
- 2.6.2 prevent access to its apparatus at any time.
- This is secured by the Cadent Protective Provisions.
- 2.7 In addition to securing compliance with industry standards, the Cadent Protective Provisions include necessary insurance and security measures which are required to be put in place before works which may affect Cadent's apparatus. These are required given the nature of the Promoter and the information set out in the Funding Statement which identify that the Project is not yet funded, and this is consistent with the Promoter's dDCO and the requirement for a guarantee or alternative security to be provided in respect of powers of compulsory acquisition prior to the exercise of those powers (see Article 22). Cadent require these measures to be included to ensure that the Promoter has adequate resources to address any damage caused to the Apparatus as a result of the Project.
- 2.8 In the current energy and security of supply crisis, providing full and proper protection to the gas distribution network is increasingly important. The Cadent Protective Provisions will help to achieve this and to avoid serious detriment to Cadent's undertaking.
- 2.9 The Cadent Protective Provisions have been included in substantially the same form in a number of previous DCOs in order to afford protection to Cadent's. For example, substantially similar protective provisions are included in the following orders: The A585 Windy Harbour to Skippool Highway Development Consent Order 2020, The M42 Junction 6 Development Consent Order

2020, The A38 Derby Junctions Development Consent Order 2021, The A47/A11 Thickthorn Junction Development Consent Order 2022, The A47 Blofield to North Burlingham Development Consent Order 2022, The A57 Link Roads Development Consent Order 2022, The M25 Junction 28 Development Consent Order 2022 and The M54 to M6 Link Road Development Consent Order 2022.

2.10 Cadent would be willing to enter into a side agreement to secure the Cadent Protective Provisions with the Promoter. Cadent has sought to engage in discussions with the Promoter to agree the Cadent Protective Provisions and will continue to do so with a view to reaching agreement and submitting an agreed set of protective provisions to the ExA.

### **3. NEXT STEPS**

3.1 Cadent request that the Examining Authority recommend that the final DCO, if made, includes the protective provisions in the form of the Cadent Protective Provisions.

**CMS Cameron McKenna Nabarro Olswang LLP**

**15 December 2022**