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Ms C Fountain
WSP
Issued by e-mail

Your Ref: 62100616

Our Ref: EN020022

Date: 14 December 2018

Dear Ms Fountain

**Proposed AQUIND Interconnector
Regulation on guidelines for trans-European energy infrastructure
EU 347/2013 (“the TEN-E Regulation”)**

On 30 July 2018 the Secretary of State for Business, Energy and Industrial Strategy directed that the AQUIND Interconnector should be treated as development for which development consent under the Planning Act 2008 is required. The Secretary of State’s letter stated that the direction ‘.. will reduce the need to apply for separate consents from the Marine Management Organisation and local planning authorities’. AQUIND Limited has confirmed that there are no other UK consents required to be included in the UK element of the TEN-E Comprehensive Decision. For projects where the Planning Inspectorate would be the sole administrative body in relation to UK elements of a proposed application, certain National Competent Authority tasks have been delegated to the Planning Inspectorate to act on behalf of the Secretary of State as the TEN-E UK National Competent Authority.

Article 10(1)(a) of the TEN-E Regulation – Notification Acknowledgement

On 17 September 2018 the Planning Inspectorate received formal notification from WSP on behalf of AQUIND Limited under Article 10(1)(a) of the TEN-E Regulation, regarding the proposed AQUIND Interconnector project. The Planning Inspectorate has reviewed the cover letter dated 17 September 2018 and the Notification pursuant to Article 10(1)(a) of the TEN-E Regulation against the requirements of the TEN-E Regulation and the UK Manual of Procedures¹.

The Planning Inspectorate considers that the project is sufficiently advanced to be able to submit an application for the UK consent required for construction of the Project of Common Interest (“PCI”) within two years of the notification acknowledgement, and is mature enough to enter the permitting process. The Planning Inspectorate therefore acknowledges the notification.

¹ The TEN-E Regulation EU347/2013 Manual of procedures: The permitting process for Projects of Common Interest

Article 10(1)(a) of the TEN-E Regulation states that '*Where two or more Member States are concerned, the date of the acceptance of the last notification by the competent authority concerned shall serve as the date of the start of the permit granting process*'. A separate notification has been submitted to Ministère de la Transition Ecologique et Solidaire, the National Competent Authority in France. The permit granting process will therefore commence once the latter of the two acknowledgments are issued. The permit granting process consists of the 'pre-application procedure' and the 'statutory permit granting procedure' of the TEN-E Regulation process, during this time, the Planning Act 2008 stages of 'pre-application' through to 'decision' will take place.

Although a draft Permit Granting Schedule was submitted alongside the notification, we note that an updated version has now been submitted and will be considered by the Planning Inspectorate in collaboration with the Ministère de la Transition Ecologique et Solidaire in due course.

Please see Annexes A and B to this letter, which set out the scope of material and level of detail of information to be submitted as part of the application file (Article 10(4)(a) of the TEN-E Regulation), and requests for modifications to the concept for public participation (Article 9(3) of the TEN-E Regulation).

If you have any queries, please do not hesitate to contact us.

Yours sincerely

Simone Wilding

Simone Wilding
Head of Major Casework Management

ANNEX A - Scope of material and level of detail of information to be submitted as part of the application file

ANNEX B - Requests for modifications to the concept for public participation

cc:

Sidonie Blanchard, Chargée de mission transport d'électricité, Ministère de la Transition Ecologique et Solidaire

Denise Libretto, Department for Business, Energy and Industrial Strategy

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ANNEX A

Article 10(4)(a) of the TEN-E Regulation - Scope of material and level of detail of information to be submitted as part of the application file

Upon the acknowledgement of the notification pursuant to Article 10(1)(a), the National Competent Authority is required to identify the scope of material and level of detail of information to be submitted by the project promoter as part of the application file.

In regard to the UK element of the application file, the Planning Inspectorate considers that the documents required to be submitted as part of an application for a development consent order in accordance with the Planning Act 2008 process are sufficient to meet the needs of the UK element of the AQUIND Interconnector PCI application, subject to any further requests made to AQUIND Limited by relevant stakeholders and the requirements in the TEN-E Regulation and Manual of Procedures.

The following documents outline the scope of material and level of detail of information to be submitted as part of the application file, in relation to Article 10(4)(a):

- the TEN-E Regulation
- information contained within section 6 of the TEN-E Manual of Procedures
- the Planning Act 2008
- the secondary legislation associated with the Planning Act 2008
- the Overarching National Policy Statement for Energy EN-1
- Government (DCLG) Guidance documents on the Planning Act 2008
- the Planning Inspectorate's Advice Notes
- the Secretary of State's AQUIND scoping Opinion December 2018

Article 9(3) of the TEN-E Regulation - Requests for modifications to the concept for public participation ("CfPP")

Within 3 months of receipt of the concept for public participation, the National Competent Authority is required to approve it or request modifications.

The Planning Inspectorate is aware that AQUIND Limited anticipates making amendments to the current draft CfPP in relation to the timeframes of the proposed 2019 consultation; the Planning Inspectorate also makes the following requests for modifications, which should be addressed in a revised draft CfPP:

Source	Requirement	Notes	Comment to Applicant
Article 9(4) Annex VI (3)(c)	At least one public consultation shall be carried out by the project promoter, or, where required by national law, by the competent authority, before submission of the final and complete application file to the competent authority pursuant to Article 10(1)(a). Comments and objections shall be admissible from the beginning of the public consultation until the expiry of the deadline only.	The applicant proposes two rounds of consultation; the first from January 2018, the second from January 2019. The expiry of the deadline is not given.	It is not clear what the start and end dates of each consultation were/will be; or if a deadline is set at all. This is particularly relevant to the 2018 consultation undertaken in relation to the TEN-E Regulation. The applicant should ensure that it is clear how Annex VI (3)(c) has been complied with, by making clear what the deadline for submissions in each phase was or will be.
Article 9(4)	As above.	Paragraph 4.1.1 of the CfPP identifies the phase 1 "informal" consultation as the consultation pursuant to Article 9(4). This took place in January 2018. Consultation in France took place in Mid-March 2018.	Use of the term "informal" can create confusion here since we understand that the Phase 1 consultation was intended to discharge a statutory requirement under the TEN-E regulations.

<p>Annex VI (5)</p>	<p>In the context of the public consultation to be carried out before submission of the application file, the relevant parties shall at least:</p> <p>(a) publish an information leaflet of no more than 15 pages, giving, in a clear and concise manner, an overview of the purpose and preliminary timetable of the project, the national grid development plan, alternative routes considered, expected impacts, including of cross-border nature, and possible mitigation measures, which shall be published prior to the start of the consultation; The information leaflet shall furthermore list the web addresses of the transparency platform referred to in Article 18 and of the manual of procedures referred to in point (1);</p>	<p>An information leaflet is referenced in paragraph 4.5.3 of the CfPP as having been produced and distributed to the general public.</p>	<p>It should be made clearer in the CfPP what the information leaflet comprised; and whether the requirements of Annex VI (5)(a) were met.</p>
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