



Our reference ELSEM/KTB/43283-1578

13 October 2015

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FOR THE ATTENTION OF GILES SCOTT

Department of Energy and Climate Change  
3 Whitehall Place  
London  
SW1A 2AW

Dear Sir

**Application by National Grid Carbon Limited for a development consent order for the Yorkshire and Humber Carbon Capture and Storage (CCS) Cross Country Pipeline  
Response to request for comments from Network Rail made in your letter dated 30 September 2015**

We are instructed by Network Rail Infrastructure Limited (Network Rail) in relation to their representations to National Grid Carbon Limited's (National Grid) application for a development consent order (Order) for the Yorkshire and Humber Carbon Capture and Storage Pipeline (Pipeline Project).

We refer to your letter dated 30 September 2015 that requests comments from Network Rail on National Grid's response to the Secretary of State's letter dated 11 September 2015. Appendix 1 of that response contains National Grid's update on discussions with Network Rail (NG Appendix 1). Network Rail's comments on the NG Appendix 1 is set out in the following paragraphs of this letter and, where appropriate, we refer to paragraphs of the Appendix.

- 1 Network Rail reiterates the comments made in our 25 September 2015 letter addressed to you. Network Rail adds the following further comments.
- 2 The Pipeline Project will cross two operational railway lines, namely the Howden to Wressle railway line and the Driffield to Hutton Cranswick line. Network Rail welcomes the fact that, in designing the Pipeline Project, and in seeking powers in relation to those lines, as described at paragraph 4.3 of National Grid's appendix 1, National Grid has had due regard to the existence of those lines.
- 3 Paragraph 6.4 of the NG Appendix 1 asks that the Secretary of State does not include paragraph 4 of the NR Protective Provisions as defined in, and attached to, our 25 September letter. However, National Grid does agree paragraph 4 should disapply article 34(1)(b) of the Order. Without prejudice to its assertion that paragraph 4 of the NR Protective Provisions should be included in its entirety, Network Rail does support the disapplication of article 34(1)(b) in any event.

10-5649344-2/43283-1578

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- 4 At paragraph 6.6 of the NG Appendix 1, National Grid states that Network Rail should observe a "duty to co-operate with other promoters of infrastructure projects, particularly where there are two infrastructure networks or a nationally significant infrastructure project is involved". Network Rail agrees with that statement and reiterates that it has no wish to prevent the Pipeline Project proceeding but merely wishes to protect the integrity and safety of the operational railway. Both National Grid and the Secretary of State should be reassured of Network Rail's duty to work constructively with National Grid by Licence Condition 8 of the Network Licence which states:

*"8.1 The purpose of this condition is to ensure that the licence holder shall treat stakeholders in ways appropriate to their reasonable requirements in their capacity as stakeholders.*

*8.2 The licence holder shall achieve the purpose in condition 8.1. In particular, the licence holder shall, to the greatest extent reasonably practicable, deal with stakeholders:*

*(a) with due efficiency and economy and in a timely manner; and*

*(b) with that degree of skill, diligence, prudence and foresight which should be exercised by a skilled and experienced network facility owner and operator."*

- 5 The Secretary of State and National Grid should also be reassured by the fact that paragraph 4 of the NR Protective Provisions does not state that National Grid may not exercise the compulsory powers listed in the paragraph but may not do so without the consent of Network Rail. In providing such consent Network Rail must act in accordance with Licence Condition 8, which we have described, and an agreement, which Network Rail hopes will be concluded and entered into within the next few weeks, will be entered into which provides appropriate protection for railway property. Network Rail does require such agreements to include "lift and shift provisions" as described in our 25 September letter unless the consent of the Office of Rail and Road is obtained which enables Network Rail to enter into an agreement that grants property rights to a third party without including the lift and shift provisions.
- 6 Network Rail reiterates its request that the long-standing principle that compulsory acquisition powers are not granted in respect of railway property is maintained in the Order, by the inclusion of paragraph 4 of the NR Protective Provisions, as it has in previous Development Consent and Transport and Works Act orders. An absence of such protection for Network Rail will have a detrimental effect on Network Rail's ability to carry out its statutory undertaking and operate the railway network.
- 7 Network Rail also reiterates that Licence Condition 7, as explained in our 25 September letter, requires that Network Rail retains an ability to operate, maintain and renew the railway network in the future which lift and shift provisions, which will be included in any easement granted to National Grid, are designed to enable. The lift and shift provisions mean that Network Rail is comfortable that it can grant easements to National Grid without such grant adversely affecting its ability to operate the railway. As we have stated, those lift and shift provisions should be included in any easement unless the Office of Rail and Road specifically authorises their exclusion.

Should The Secretary of State require any further information or require clarification of any point, please do not hesitate to let us know.

Yours faithfully

  
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