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PROPERTY TRANSPORT INVESTMENT DEVELOPMENT

BOC Limited  
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Woking  
GU21 6HT

National Infrastructure  
Planning  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

14<sup>th</sup> August 2024

Dear Sir,

**APPLICATION BY H2 TEESSIDE LIMITED FOR AN ORDER GRANTING  
DEVELOPMENT CONSENT FOR THE HSTEESIDE PROJECT**

**INTERESTED PARTY REFERENCE NUMBER: 20049365**

**BOC LIMITED**

We write on behalf of our client BOC Limited (Interested Party Reference number: 20049365) ("BOC") in response to the letter dated 31<sup>st</sup> July 2024 (your Ref: EN070009) (the 'Rule 6' letter) regarding an Invitation to the Preliminary Meeting, notification of Procedural Decisions and Notification of Hearings.

The purpose of this correspondence is to notify the Examining Authority (ExA) that our client wishes to actively participate in the Issues Specific Hearing 1 (ISH1) on 28<sup>th</sup> August 2024 at 2pm.

We have reviewed the draft agenda for this hearing (Annex E to the 'Rule 6' letter) and confirm that we wish to speak on items 3 and 4.

The topics we would like to raise relate to the need for permanent acquisition of freehold, permanent acquisition of rights and temporary possession over plots in which our client has an existing right and/or interest to operate and maintain its own existing gas infrastructure and how the extent of these powers has been justified through the level of design development undertaken to date.

Our view is that the level of design has not gone sufficiently far to enable either the Promoter or our client to fully understand how BOC's existing assets and operations will be impacted by the Project and therefore what safeguards and mitigation, and the

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mechanisms / agreements by which they are to be secured, need to be put in place to protect our client's interests and ensure its existing critical infrastructure is not compromised.

The documents in the Examination Library we may wish to refer to include:

- APP-008 2.2 Land Plans
- APP-010 2.4 Works Plans
- APP-012 2.6 Indicative Hydrogen Production Facility and Above Ground Installations Plans
- APP-016 2.10 Indicative Hydrogen Distribution Network Plans
- APP-023 3.1 Book of Reference
- APP-027 4.1 Draft Development Consent Order
- App-034 5.4 Design and Access Statement
- APP-035 5.5 Pipelines Statement
- APP-056 6.2.4 ES Vol I Chapter 4 Proposed Development

The reason for this request to participate in ISH1 and our rationale for the topics to be raised is further explained below.

BOC is the largest provider of industrial, medical and special gases in the UK and Ireland. The H2Teesside DCO application site is located in an area where BOC owns and operates an important part of its infrastructure network, comprising apparatus and pipelines, for the supply of gases to a large variety of customers across a wide range of industries.

The powers sought by the Promoter for the permanent acquisition of freehold title, permanent acquisition of new rights and temporary possession over BOC's property rights and interests under this DCO application are significant. BOC has appointed Baker Rose Consulting LLP as Chartered Surveyors to act on its behalf in relation to the development and the use of compulsory purchase powers, as well as to advise on compensation matters, in relation to the H2Teesside DCO application. We are working alongside Fieldfisher LLP as BOC's appointed solicitors on this matter. We are still in the process of reviewing the DCO application documents against our client's extensive property rights and interests to understand the actual impacts of the Project on our client's ability to operate and maintain its infrastructure. At this time we are, however, able to ascertain that the Project appears to require:

- the removal/relocation of BOC pipelines as part of the construction of the main Hydrogen Production Facility (HPF) site, as well as the ancillary works, in terms of gas and services connections, in this same area;
- the laying of new pipelines for the Project in existing pipeline corridors shared by BOC and other third parties across various areas of the DCO application site; and
- interference with BOC's existing rights of access, including to industrial gas plant, for, amongst other works, the need for Project highway improvements.

There has been no engagement between BOC and the Promoter to discuss the implications of the project construction and operation on BOC interests and infrastructure. The Pipelines Statement refers to the fact that the Project will require multiple crossings of existing services and pipelines, noting that some corridor sections



are already congested (eg. Bran Sands), and that these will be developed in engagement with existing asset owners. Of concern to BOC for example is the easement width required for the proposed hydrogen pipelines and how this may be accommodated in the existing corridor routes without compromising BOC's existing infrastructure. Also how continuous gas supply may be maintained to its customers in the event pipelines are required to be removed/relocated.

BOC is subject to statutory and regulatory requirements to continuously repair and maintain its pipeline infrastructure to keep it safe and promote fuel resilience. If BOC's rights are extinguished and not replaced with equivalent rights, then its position in terms of meeting its statutory and regulatory obligations is compromised. Agreement on options to avoid/mitigate adverse impacts, including through the agreement of protective provisions, is therefore of critical importance. We understand that Promoters' Solicitor, Pinsent Masons LLP had previously offered to send through draft protective provisions. However as this was not followed through Fieldfisher LLP drafted an initial protective provisions agreement and provided this to Pinsent Masons LLP on 17 June 2024, with a view to instigating engagement. Despite efforts chasing, Fieldfisher has not to date received any comments on the draft document.

Until we have direct engagement with the Promoter to understand the level of design development to date, and can review this in detail to understand exactly how BOC's infrastructure will be impacted, we cannot properly assess what specific provisions would need to be included within any protective provisions in the draft DCO to determine if they are fit for our client's purpose and sufficient to protect its position in respect of the above.

We look forward to receiving communication from the Promoter to arrange a meeting to address our concerns. In this way we welcome the ExA's direction that a Statement of Common Ground (SoCG) be prepared between the Promoter and our client which we hope will help to drive forward collaboration and the narrowing of issues of concern/dispute.

We trust that this request for our client's participation in ISH 1 will be reviewed accordingly and we look forward to confirmation of this in due course.

Yours sincerely

Sarah Gillie  
Partner  
Baker Rose Consulting LLP  
Contact email: [REDACTED]

cc.

Glen Jenkins, BOC Limited  
Christopher Stanwell, Fieldfisher LLP