

**Response to ExA's FWQ's 1.2.7 on behalf of Cadent Gas Limited.**

Qu.	Qu. to	Question
1.2.7	The Applicant, Electricity North West Ltd, United Utilities Group Plc, BT Plc, GTC Ltd, Cadent gas Ltd	<p><b>8(4) Transfer of Benefit</b></p> <p>Why is it considered unnecessary to obtain the consent of the SoS prior to a transfer or grant to the specified utility companies?</p> <p>The transfer of consent to the utility companies appears to be without limitation. If the benefit of the CA and TP articles is to be transferred without consent, can the Applicant explain how the SoS can be satisfied that the companies listed have sufficient funds to meet these costs?</p> <p>Para 5.21 of the EM says that consent of the SoS is required except where it is made to specified companies in relation to <i>certain utility diversion works</i>. The dDCO does not limit transfer to these companies to specific works. Can the Applicant please explain this?</p>
1.2.7	Cadent Response:	<p>The purpose of the transfer of the benefit is firstly to allow Cadent to carry out their own Gas Diversion works to remove their existing apparatus out of the way to allow for the Authorised Development. Cadent will not allow third parties to carry out their diversions on their behalf and therefore need to be able to benefit from the consent to the works granted under the Order. Our reading of Article 8 (4) is that this is what it achieves in relation to the relevant diversion works only and in relation to consent to carry out such works only.</p>

As well as diverting their existing Apparatus for the purposes of enabling the Authorised Development, Cadent need to ensure that they have necessary land rights in place for the diverted apparatus before it is commissioned. Cadent would not accept a transfer of undertaking with the Undertaker without an appropriate agreement between the parties as to the basis of the transfer of undertaking. However there are circumstances where it may be better for Statutory Undertakers to acquire directly those property rights that they require from the relevant landowners by compulsion rather than for the promoter to seek to acquire such rights by compulsion and then seek to pass them to a third party, which can cause technical complexities. This is as a last resort where it has not been possible to acquire such rights by agreement. In any event it is not our reading of Article 8(4) that it expressly extends to the transfer of CA/TP powers.

Cadent has a licence under s7 of the Gas Act 1986 and is a statutory undertaker with responsibility for four gas distribution networks in North London, Central England (West and East) and the North West. This includes having their own compulsory purchase powers under the Gas Act 1986, although these would first require the promotion of separate Compulsory Purchase Orders which is not appropriate or necessary in a DCO context. Accordingly the legislation already considers Cadent to be an appropriate party to be given Compulsory Purchase Powers. Cadent's covenant strength is stronger than a large number of DCO promoters who are private companies, sometimes SPV/shelf companies who are given CA/TP powers and only backed by parent companies in their funding statement.