

PLANNING ACT 2008

AND

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

THE ABLE MARINE ENERGY PARK DEVELOPMENT CONSENT ORDER 2012

(PINS REFERENCE NUMBER: TR030001)

**WRITTEN SUMMARY OF THE ORAL CASE PUT AT THE PROTECTIVE PROVISION
HEARING ON THE DRAFT DCO AND DRAFT DEEMED MARINE LICENCE HELD ON 21
AND 22 NOVEMBER 2012**

ON BEHALF OF

E.ON UK PLC

(UNIQUE REFERENCE NUMBER: 10015527)

AND

E.ON CLIMATE & RENEWABLES UK HUMBER WIND LIMITED

(UNIQUE REFERENCE NUMBER: ABLE-AP-043)

November 2012

1 INTRODUCTION

This summary of the oral representations made at the Protective Provisions Hearing in to the draft DCO and draft Marine Licence is submitted on behalf of E.ON UK Plc ("E.ON").

1.1 Current Position

It will be recalled that E.ON had concerns in relation to its existing easement which gave E.ON rights to connect its intake and outfall pipes from Killingholme Power Station to the River Humber. The proposal works involve works in the vicinity of these pipes and there is a need by the Company to reduce the size of the easement corridor.

Agreement has now been reached between the Company and E.ON on terms for a new easement which allows the pipes to remain in situ and also includes provision for working in the vicinity of these pipes. This agreement has not been formerly executed by the parties but there are no outstanding matters remaining to be negotiated.

E.ON is now satisfied that the protective provisions in part 9 of Schedule 9 of the DCO will provide adequate protection to E.ON's equipment at Killingholme.

At the Oral Hearing E.ON referred to some minor amendments to the Order which have been agreed with the Company. These are as follows:

- (1) Part 4 of Schedule 8 (Deemed Marine Licence) – E.ON have requested that paragraph 13(3) is amended to read as follows: "the licenceholder must have regard to any consultation responses received from C. RO Ports (Killingholme) Limited, E.ON UK Plc and Centrica"
- (2) Part 9 of Schedule 9 (Protective Provisions) – there are two part 9's – one for National Grid and one for E.ON. These need to be re-numbered with National Grid as part 8 and E.ON remaining as part 9.
- (3) E.ON's Protective Provisions – paragraph 75(2)(c) – (i) governs 48 hour prime ratification of any development within the vicinity of the pipelines; and (ii) governs seeking Ables consent to the proposed development. The paragraphs are the wrong way round and so it is requested that the order of paragraphs (i) and (ii) is reversed along with a minor amendment to current paragraph (1) so that it reads"
 - (c) adoption of a prior notification and consent regime which would require the undertaker to: (i) seek E.ON's consent to the carrying out of the proposed development within the vicinity of the pipelines and intake and outfall, such consent not to be unreasonably withheld; and (ii) notify E.ON of its intention to carry out the development approved in (1) above within the vicinity of the pipelines and intake and outfall, such notification to be provided at least 48 hours prior to any such development occurring."

"Paragraph (a) of that provision also needs to move to the line below (2)."

1.2 **Anglian Water**

In the session which dealt with amendments to Schedule 9 Part 11 concerning Anglian Water, new amendments were introduced which omitted the requirement for consultation with E.ON if there was a proposal to relocate any assets of Anglian Water. E.ON have reviewed these amendments and now raise no objection.

1.3 **Planning Act 2008 – Sections 127 and 138**

In E.ON's original written representations, concern was raised that the powers sought by the Company would engage sections 127 and sections 138 as the land for which compulsory purchase powers were sought were statutory undertaker's land. As agreement has now been reached between the parties, the land transaction will be undertaken by agreement and not by compulsory purchase. However until the new easement has been executed E.ON are unable to withdraw their representations and so these remain before the Secretary of State.

However E.ON made it clear at the Hearing that they would notify the Secretary of State as soon as the new agreement had been signed.

Once the new agreement is signed, Sections 127 and 138 will no longer be engaged and need not then form part of any decision by the Secretary of State.

E.ON CLIMATE & RENEWABLES UK HUMBER WIND LIMITED.

Representations in respect of this company are no longer relevant as the Company are no longer seeking to acquire land at Old Little Humber Farm.

Squire Sanders (UK) LLP
22 November 2012