

**NATIONAL GRID ELECTRICITY TRANSMISSION PLC**

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**Response to ExA's Second Written Questions issued 8th May 2018 on behalf of National Grid Electricity Transmission Plc**

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The Examining Authority's Second Written Questions and requests for information (FWQs) Issued on 8 May 2018

Response on behalf of National Grid Electricity Transmission Plc

Ref.	Topic	Question to Application/NGET	Response
2.8.48		(i) Would the Applicant and other parties state their position regarding the protective provisions? [as per Revision 2 of the dDCO submitted at deadline 3]	<p>The protective provisions submitted with the dDCO submitted at deadline 3 are generic and not expressly for the Protection of National Grid on their standard terms. However negotiations between National Grid and the Promoter are continuing and an agreed version of the protective provisions for National Grid's benefit should be capable of being included in the dDCO for Revision 3.</p> <p>As it is anticipated that a final version of the protective provisions for the benefit of National Grid will be fully agreed between the parties by deadline 5 (6<sup>th</sup> July 2018) these should be included within dDCO rev 3, in response to your question 2.8.48 (ii),</p>

	<p>(iii) With regard to Part 1 of Schedule 10, several of the protective provisions contain a provision similar to paragraph 5 which has the effect of neutralising the compulsory acquisition and temporary possession powers. What is the justification for such a provision in light of the powers included in Part 3 Powers of acquisition and possession of land of the Order?</p>	<p>From National Grid's perspective in the specific circumstances of this case they have apparatus within and adjoining the Order Land, including apparatus accessed via the Order Land. In this instance that Apparatus is not being moved or relocated as a result of the Authorised Development. Rather that Apparatus is remaining in situ as part of the delivery of National Grid's statutory undertaking. The Tilbury 400KvGIS Sub Station and the Tilbury 275Kv Substation, existing overhead power lines (as set out in the written representation) and underground 400Kv Cable Tunnel (within the order boundary dredging extents) are all existing electricity infrastructure serving existing development whether residential areas or existing business/infrastructure. It is an essential part of National Grid's Transmission and distribution network and needs to remain in situ. In order for National Grid's existing apparatus to remain in situ and be operated safely its pre-existing land and rights, including access rights required to access the Substations via the Order Lands need to remain unaffected by the Order. This is acknowledged and agreed with the Promoter.</p> <p>Given the above it would be wholly inappropriate to grant a developer/promoter, even another statutory undertaker in the case of the PoTLL, unnecessarily wide powers to acquire land, rights or override National Grid's existing interests in land or their apparatus as this would affect their ability to deliver their statutory undertaking. It would also be inappropriate to allow the Promoter to take temporary possession to the exclusion of National Grid, impose restrictive covenants otherwise affecting National Grid's apparatus or otherwise grant any powers of appropriation or use of National Grid's apparatus otherwise than by agreement with National Grid. National Grid's ability to deliver their statutory undertaking by way of their existing apparatus in this area needs to</p>
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			<p>be given at least as much weight as the Promoters need to deliver the authorised development. As such it is essential that protective provisions are used to narrow down the otherwise extremely broad powers granted by the DCO and ensure that interactions between the parties are governed by the protective provisions. This is not disputed by the Promoter who acknowledges that it is appropriate that National Grid's apparatus and land rights are retained and that the two parties co-operate in order that both can fulfil their respective statutory undertakings notwithstanding the DCO powers and the proposed new authorised development.</p> <p>The need for National Grid to be protected from Compulsory Acquisition and related powers is enshrined in s127 of the Planning Act 2008, which notwithstanding the ability to invoke Special Parliamentary Procedure has now been removed from legislation still provides that Compulsory Acquisition of statutory undertakers land or rights may only be authorised where it can be acquired without serious detriment to the carrying on of the undertaking or where if purchased it can be replaced by other available land/rights. If broad unfettered powers of compulsory acquisition of land and rights and other related powers overriding or interfering with statutory undertakers rights are granted in a DCO without the adequate protection provided for in the Protective Provisions this would be contrary to s127 PA 2008 unless full consideration has been given to the need for an impact of such acquisition on the statutory undertaking. In this vase unfettered powers could potentially jeopardise National Grid's ability to access, maintain and function key substation infrastructure.</p> <p>Put the other way, if the protective provisions did not protect</p>
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