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Date 1st May 2008

Dear Sarah

Consultation on proposals for dealing with requests for Authority consent under Standard Licence Condition 15 of the Electricity Generation Licence

Thank you for the opportunity to comment on the issues raised in your consultation on the above as published on 23rd April 2008. We welcome the proposal by Ofgem to establish and publish a procedure for dealing with requests under Standard Licence Condition 15 (SLC 15) as this will provide more clarity to licensees on the process to be undertaken by Ofgem in granting consent.

It is unclear exactly what role the Authority has in respect of consenting to the exercise by a licensee of the powers and rights conferred to it by or under the provisions of Schedule 4 to the Electricity Act 1989 ("the Schedule"). Further, there appear to be no grounds for refusal of consent or any appeal process if consent was, or was not, granted. Consequently, the Authority's role should be strictly limited to ensuring that the applicant holds a valid generation licence (that has standard licence condition 15 in effect) and that it has adequately demonstrated that it is seeking to use the powers and rights granted under the Schedule solely for the purpose provided for by that Schedule. The Authority's consent process should therefore be quick, concise and efficient.

Our comments on the proposed procedure are set out below:

- Para 1b) - It is our understanding that the legal rights provided for by paragraph 10 of the Schedule should in practice only be sought or exercised by a licensee if they have been unsuccessful in gaining the necessary consent for access to the land in question from the land owner/occupier. Consequently, this paragraph should be amended to reflect this practice and brief details of the contact with the land owner/occupier – including any grounds for refusal (if given) - should be provided.
- Para 1c) - The notice required under paragraph 10(2) of the Schedule can only actually be produced following confirmation by the Authority that the powers under the Schedule may be used by the licensee. Paragraph 1c) should be amended to seek only a brief summary of the work to be undertaken in order to establish whether the land is suitable for the construction or extension of a generating station.

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- Para 2 – As indicated above, normal practice should be that the licensee has already sought consent for access from the land owner prior to applying for these rights. Further, provided the licensee has demonstrated that it is only seeking to exercise its legitimate powers under the Schedule, we fail to see why, in normal circumstances, Ofgem should need to contact the land owner directly. This will simply extend the time needed for Ofgem to consider an application. However, we do recognise that there may be exceptional circumstances in individual cases where this might be deemed appropriate – perhaps highlighted in the landowner's grounds for refusal.

If you have any questions regarding this response please do not hesitate to contact me.

Yours sincerely



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