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Dear Sarah,

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

We welcome the opportunity to comment on Ofgem's proposed clarification/expansion of Standard Licence Condition (SLC) 15 of the electricity generation licence.

As a first point of clarification, it needs to be made clear that a licensee seeking entry to land for the purposes of exploration through direct and amicable liaison with the landowner is not considered to be exercising its powers under SLC 15 and therefore is not subject to the requirement to seek additional consent from the Authority.

On this basis, we understand that the rights presented under paragraph 10, Schedule 4 of the Electricity Act would only be exercised when a licensed generator was seeking the Authority's consent to gain access to land either because it had chosen not to approach the landowner directly or the landowner had refused access. In the first instance, i.e. where a landowner has not been previously approached, we believe the Authority's initial recommendation to the licensee should be to approach the landowner directly or at least seek to understand any reasons as to why the landowner has not been approached. We believe this is absent from the current proposal, which focuses on circumstances when access to land has been refused.

Where access has been refused, we do not believe it is appropriate for the Authority to contact the landowner directly. The proposal does not clarify the circumstances under which it would choose to adopt this approach. Similarly, the proposal does not clarify the criteria against which the validity of a landowner's refusal would be assessed. We are concerned that the Authority's involvement in this process could lead to the Authority (and landowners) dictating where future developments are located, which is wholly inappropriate. We would therefore welcome clarity on both of these points.

Finally, we are mindful that the time involved in seeking the Authority's consent could result in considerable and unnecessary delays to a project or works. In some cases, access can be as simple as to carry out a survey. These can be time critical, for example those involving birds and/or wildlife, and a convoluted process may set projects back considerably.

We hope this is useful input. Should you require any further information, please do not hesitate to contact me.

Yours sincerely,

Rob McDonald
Director of Regulation.