

Electricity generation licence  
holders, affected landowners and  
occupiers and other interested  
parties

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Date: 22 July 2014

Dear Colleague

**Consultation on Triton Knoll Offshore Wind Farm Limited's application for the Authority's consent to its exercise of compulsory rights of entry on land under section 10 of and paragraph 10 of Schedule 4 to the Electricity Act 1989 as applied by Standard Licence Condition 15(4) of the generation licence**

We have received an application ("the Application") from Triton Knoll Offshore Wind Farm Limited ("TKOWFL") for the Authority's consent to its exercise of compulsory rights of entry on land under section 10 of and paragraph 10 of Schedule 4 to the Electricity Act 1989 ("the 1989 Act"), as applied by Standard Licence Condition (SLC) 15 (4) of its generation licence.

Having carefully considered the Application, the Authority is minded to refuse consent for the reasons set out under 'The Authority's reasoning'.

As part of our decision making process and as stated in our published procedure of May 2008<sup>1</sup> as amended in April 2012<sup>2</sup>, we would welcome the views of interested parties concerning the Application and will take those views into account in reaching a final decision on the Application. A copy of the Application is appended to this consultation document.

## **Background**

As explained in our previous consultations on matters related to SLC 15 (4), section 10 of and paragraph 10 of schedule 4 to the 1989 Act allow a person authorised in writing by a generation licence holder to enter compulsorily on and survey land for the purpose of ascertaining whether that land is suitable for use for any purpose connected with the carrying on of the activities which the licence holder is authorised by its licence to carry on. As contemplated by section 10(2) of the 1989 Act, those powers have effect subject to such restrictions, exceptions and conditions as may be included in the licence.

SLC 15 (4) of the generation licence provides:

*"Paragraph 10 of Schedule 4 to the Act shall apply to the licensee if:*

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<sup>1</sup> <https://www.ofgem.gov.uk/publications-and-updates/decision-letter-procedure-dealing-requests-authority-consent-under-standard-licence-condition-15-electricity-generation-licence>

<sup>2</sup> <https://www.ofgem.gov.uk/publications-and-updates/update-ofgem-procedure-dealing-requests-authority-consent-under-standard-licence-condition-15-electricity-generation-licence>

*(a) it wishes to exercise its rights of entry on land for the purpose of establishing whether or not the land is suitable for the construction or extension of a generating station; and*

*(b) it obtains the consent of the Authority before exercising those rights.”*

Accordingly SLC 15 (4) of the generation licence restricts the powers available under paragraph 10 of Schedule 4 in two ways:

- by limiting the purpose for which the licensee may enter land; and
- by requiring prior Authority consent.

### **TKOWFL’s application**

TKOWFL was granted a generation licence in July 2013. On 24 February 2014, TKOWFL applied for the Authority’s consent to its exercise of compulsory rights of entry on land in Lincolnshire for the purpose of ascertaining whether that land is suitable for the construction of an onshore electrical system as part of its project to construct an offshore wind farm off the east coast of England. In particular, TKOWFL intends to establish the suitability of the land for:

1. the installation of underground cables;
2. access for installation and maintenance;
3. the construction of an electrical substation;
4. use as a construction and laydown area; and
5. landscaping to reduce the visual impact of the project on the local community.

The Application indicates that TKOWFL has attempted to contact the occupiers of the land in question, that five landowners have refused access, that TKOWFL has been unable to contact one landowner and that two of the plots of land affected are not registered in the land registry.

The Application also indicates that non-intrusive geophysical surveys would be carried out on the land within an approximate 2 week time frame, and that intrusive surveys of the topsoil and subsoil would be carried out only where non-intrusive surveys have indicated the likely presence of sub-surface archaeological deposits. The Application further indicates that non-intrusive ecological surveys would be carried out during a specified number of visits to the land surveyed.

### **The Authority’s reasoning**

The term ‘generating station’ is defined for the purposes of SLC 15 in SLC 14(3)(a) of the generation licence as an electricity generating station which:

- a) has, or will have when its construction or extension is completed, a capacity of not less than 50 megawatts or such other capacity as may be specified in relation to thereto by order of the Secretary of State under section 36(3) of the Act; and
- b) is, or will be when its extension or construction is completed, operated by or for the licensee.

The term ‘extension’, in relation to a generating station is defined for the purposes of SLC15 in SLC 14(3)(b) of the generation licence as including the use by the person operating the station of any land (wherever situated) for a purpose directly related to the generation of electricity by that station.

Having carefully considered the Application, the Authority’s minded-to position is based upon its assessment that the proposed use of the land to be surveyed is not for:

- a) the construction of a generating station as the generating station is the wind farm situated offshore; or
- b) an extension of a generating station as there is not the requisite "direct" relationship between the proposed use of the land to be surveyed and the generation of electricity, so that the proposed use of that land is not for an "extension" of a generating station.

## **Responses**

Responses to this consultation must be received on or before 22 August 2014. All responses should be sent to Yvonne Naughton, Offshore, Ofgem, 3<sup>rd</sup> Floor, Cornerstone, 107 West Regent Street, Glasgow, G2 2BA, or by email to [offshorelicensing@ofgem.gov.uk](mailto:offshorelicensing@ofgem.gov.uk).

Please note, unless marked confidential, we will publish all responses on our website. Respondents may request that their response is kept confidential. We will respect these requests, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

Yours faithfully

Yvonne Naughton  
**Senior Manager, Offshore Transmission**