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MBH Environmental Limited
(By e-mail)

Your Ref:
Our Ref:
Date: 18 June 2018

Dear ██████████

THE ELECTRICITY GENERATING STATIONS (VARIATION OF CONSENTS) (ENGLAND AND WALES) REGULATIONS 2013

THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND AND WALES) REGULATIONS 2017

APPLICATION BY THIRD ENERGY UK GAS LIMITED UNDER SECTION 36C OF THE ELECTRICITY ACT 1989 TO VARY THE CONSENT AND PLANNING PERMISSION FOR THE KNAPTON GENERATING STATION, NORTH YORKSHIRE

APPLICATION NORTHERN POWERGRID (NORTHEAST) LIMITED UNDER SECTION 37 OF THE ELECTRICITY ACT 1989 TO KEEP INSTALLED AN OVERHEAD POWER LINE AT KNAPTON GENERATING STATION, EAST KNAPTON, MALTON

Thank you for your e-mail of 29 May 2018 with attachments relating to Third Energy UK Gas Limited's ("Third Energy") applications under section 36C for the Electricity Act 1989 for the Knapton Generating Station in North Yorkshire ("the variation application") and on behalf of Northern Powergrid (Northeast) Limited ("Northern Powergrid") to keep installed an overhead electric line ("OHL") at Knapton Generating Station, East Knapton, Malton ("the section 37 application").

Section 36C Application -Suitability for Publication

It has been helpful to review the recent documentation provided in considering whether the Secretary of State can conclude the variation application is suitable for publication in accordance with regulation 4 of the Electricity Generating Stations (Variation of Consents) (England and Wales Regulations 2013 ("the Variation Regulations"). Regulation 4(8) of the

Variation Regulations states that *“a variation application is suitable for publication in accordance with regulation 5 if it appears to the appropriate authority that - (a) the applicant wishes to construct, operate or extend a generating station in a way which the relevant section 36 consent does not authorise it to do...”*. Based on the definitions of ‘section 36 consent’, ‘section 90 direction’ etc in the interpretation clause in the Regulations, paragraphs 1 to 3 of the Secretary of State’s Knapton consent make up the ‘section 36 consent’ and are distinct from the section 90(2) deemed planning permission element (i.e. Condition 4 onwards). In addition to the definitions, you can see, for example, from regulation 3 of the Regulations that the Secretary of State can make *“a section 90 direction on varying the relevant section 36 consent”*, which suggests that the section 36 consent needs to be amended before a section 90 direction can be given.

In respect of other s.36C applications the Secretary of State has received, the variations sought have, for example, required specific changes to plant or an increase in generating capacity etc that need to be reflected in what the Development would comprise (i.e. the information contained in Condition 2). However, it is not clear to the Secretary of State from the information currently provided on Knapton why a variation to the section 36 consent is required.

In the circumstances, a further representation under regulation 4(2)(b) of the Variation Regulations is requested by Monday 2 July 2018 with a view to persuading the Secretary of State that the Application is suitable for publication.

s.36C Tracked Change Consent Document

In respect of the tracked change consent document provided, the Secretary of State considers it would be extremely helpful for readers’ understanding of the changes made to the original consent if it identified separately all the subsequent changes made firstly as a result of the approval by Ryedale District Council and secondly the changes now being sought by Third Energy in the current application (i.e. by use of superscript numbering and strikethrough – e.g. ‘*Ryedale District Council Approval*¹’, ‘*Third Energy Variation*²’ etc to show changes -see the Drakelow varied consent on the Department’s Energy Infrastructure Portal referred to in my letter of 24 May 2018 as an example).

s.36 & s.37 EIA Development/Screening Decisions

Finally, in respect of the section 36C application, as previously indicated it is BEIS’ screening policy to only to consult after the Secretary of State has confirmed suitability for publication. Whilst the Secretary of State could still consult the relevant planning authorities (“RPAs) now on the separate EIA screening for the overhead line covered by the section 37 application, it is clearly associated with the section 36C generating station application and he therefore considers it would be sensible to delay consultation with the RPAs on both EIA screenings until he is satisfied that the section 36C application is fit for publication.

Please do not hesitate to contact me if anything is unclear.

Yours sincerely,

[REDACTED]

Case Manager, Energy Infrastructure Planning Team