

SCHEDULE 8

Protective provisions

PART 5

For the protection of Centrica plc

Application

1. For the protection of Centrica the following provisions, unless otherwise agreed in writing between the undertaker and Centrica, have effect.

Interpretation

2. In this Part of this Schedule—

“apparatus” means Centrica’s pipeline or other electrical, gas or telecommunication infrastructure;

“Centrica” means Centrica plc and all of its subsidiaries and group companies including but not limited to Centrica KPS Limited, Centrica Storage Limited and Centrica Energy; and

“pipeline” means Centrica’s condensate pipeline shown magenta on the plan bearing reference LRS/PB/KPS/02 and dated October 2013.

Creation of rights for Centrica

3. Before extinguishing any existing rights for Centrica to keep, inspect, renew and maintain its apparatus on, over or in the Order land or to cross the Order land to access its apparatus, the undertaker, with the agreement of Centrica, shall create a new right, which is consistent with the existing right being extinguished to keep, inspect, renew and maintain the apparatus in the same location or a new right of access that is reasonably convenient for Centrica, such agreement not to be unreasonably withheld or delayed.

Apparatus

4.—(1) Save where paragraph 5 of this Part applies, no works are to commence within 10 metres of apparatus until a construction method statement to protect the apparatus has been prepared by the undertaker and submitted to and agreed with Centrica which shall not be unreasonably withheld or delayed but may be given subject to conditions.

(2) The construction method statement must include provisions in respect of—

(a) the location and methods of reinforcement of crossing points over the apparatus and restrictions on building and altering the ground level over the apparatus elsewhere;

(b) a mechanism for the enforcement of the undertaker’s use of designated crossing points over the apparatus and the agreed reinforcement methods; and

(c) adoption of a prior notification and consent regime which would require the undertaker to—

(i) seek Centrica’s consent to the carrying out of the proposed development within the vicinity of the apparatus, such consent not to be unreasonably withheld; and

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- (ii) notify Centrica of its intention to carry out any development within the vicinity of the apparatus, such notification to be provided at least 48 hours prior to any such development occurring; and

the authorised development must be carried out in accordance with the approved construction method statement.

Removal of apparatus

5.—(1) If, the undertaker acquires or overrides any interest in any land in which apparatus is laid, the apparatus shall not be removed under this Part of this Schedule and any right of Centrica to maintain the apparatus in that land shall not be extinguished until alternative apparatus has been constructed at the undertaker's expense, and is in operation to the reasonable satisfaction of Centrica in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of apparatus in that land, it shall give to Centrica 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Centrica reasonably needs to remove the apparatus) the undertaker shall, subject to sub-paragraph (3), afford to Centrica to their satisfaction (taking into account paragraph 6(1) below) the necessary facilities and rights for—

- (a) the construction of an alternative apparatus in other land of the undertaker or Centrica; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker or Centrica, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Centrica shall, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Centrica to seek compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of the undertaker or Centrica under this Part of this Schedule shall be constructed in such manner and in such line or situation as may be agreed between Centrica and the undertaker.

(5) Centrica shall, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to Centrica of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay, at the cost of the undertaker, to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) If works pursuant to sub-paragraph (1) include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Centrica any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, such sum shall be paid to the undertaker by the amount which represents that benefit.

Facilities and rights for alternative apparatus

6.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Centrica facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for the apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the undertaker and

Centrica and shall be no less favourable on the whole to Centrica than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by Centrica.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Centrica under (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Centrica than the facilities and rights enjoyed by it in respect of the pipeline to be removed and the terms and conditions to which those facilities and rights are subject, the matter shall be referred to arbitration and, the arbitrator shall make such provision for the payment of compensation by the undertaker to Centrica as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Costs

7. If for any reason or in consequence of the construction or operation of the authorised development, any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Centrica, the undertaker must bear and pay the cost reasonably incurred by Centrica in making good any damage by reason or in consequence of any such damage.

Access to power station

8. The undertaker shall exercise the powers conferred by this Order so as not to obstruct or render less convenient the access of Centrica to its Killingholme Power Station and any apparatus, and not less than 56 days prior to undertaking any works to Chase Hill Road, East Halton Road or Station Road (including traffic management measures, diversions, road closures and stopping up) will submit to Centrica details of the proposed location and duration of those works and comply with its reasonable requirements for ensuring its free and unrestricted use of those highways.

Requirement for agreement

9. Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker shall not acquire any apparatus or override any easement or other interest of Centrica, acquire any land or other interest of Centrica or create any new rights over the same otherwise than by agreement of Centrica, which shall not be unreasonably withheld.