

Transport and Works Act 1992

Transport and Works (Inquiries Procedure) Rules 2004 (SI 2004/2018) ("IPR 2004")

Application for Proposed London Overground (Barking Riverside Extension) Order

Statement of Case of Indigo Pipelines Limited

Introduction

- 1 This is the Statement of Case of Indigo Pipelines Limited ("Indigo") submitted pursuant to Regulation 7 of the IPR 2004.
- 2 Indigo submitted an objection to the draft Order on 13th May 2016.

Indigo's Undertaking

- 3 Indigo is an independent gas transporter licensed by the Office of Gas and Electricity Markets to convey gas through pipes to premises in its authorised area, which encompasses the location of the project proposed in the draft Order.
- 4 Indigo is under a statutory duty to develop and maintain an efficient and economical pipeline system for the conveyance of gas, and must comply with any reasonable request to connect that system to any premises so far as it is economical to do so.
- 5 Indigo is supportive of the project being promoted by TfL, but this is subject to TfL proceeding in a manner which appropriately protects Indigo's apparatus and ability to undertake the requirements of its statutory duty.

Objection

- 6 Indigo notes that protective provisions are provided at Schedule 8 Part 3 of the draft Order for the protection of electricity, gas, water and sewerage undertakers. However Indigo has two fundamental issues with these protections:
 - (a) Indigo does not sit (whether through drafting error or otherwise) within the definition of "specified undertaker". The result is that the protective provisions which are meant to benefit all gas distribution undertakers, do not actually benefit its gas distribution undertaking. This fundamental point means either that amendments to Schedule 3 Part 8 are required, or the protective provisions must otherwise be made to benefit Indigo should the draft Order be confirmed; and
 - (b) In any event Indigo has a number of points of substance around the adequacy and appropriateness of the protective provisions at Schedule 8 Part 3 which it wishes to see addressed by TfL so that Indigo can be assured the proposed project does not prejudice its operations and ability to appropriately carry out its statutory duty.
- 7 Indigo considers that in the absence of any necessary and appropriate protective provisions being secured to benefit its undertaking, whether on the face of the draft Order or in a separate legal agreement, the draft Order could not be confirmed by the Secretary of State. As currently proposed the draft Order would act to compromise Indigo's ability to provide and maintain apparatus in the vicinity of the proposed project and meet the requirements of its statutory duties.

Status of Discussions with TfL

- 8 In relation to each of the points of principle set out at paragraph 6, Indigo is seeking to progress discussions with TfL to find a resolution as soon as possible.
- 9 Indigo hopes that TfL will proceed in a cooperative manner so that Indigo can withdraw its objection at the soonest opportunity. Discussions between Indigo and TfL's respective legal teams are ongoing.
- 10 Indigo will wish to reserve its rights to appear at the Inquiry to explain its position before the Inspector in the event that its objection is not removed prior to the public inquiry.

Documents

- 11 Indigo would wish to rely on:
- (a) the draft Order and associated documentation prepared by TfL;
 - (b) such further plans prepared by Indigo showing the inter-relationship of the project and apparatus owned or proposed by Indigo

in the event it is forced into a position whereby it must progress its objection to Inquiry.

Addleshaw Goddard LLP

22 July 2016