

## **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 SSE Water Limited**

###### **Introduction**

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

###### **Indigo's Undertaking**

- 3 SSE Water is licensed by the Water Services Regulation Authority as the water and sewerage undertaker in respect of a water supply area in Barking, Essex which encompasses the location of the project proposed in the draft Order. On 15 June 2015, SSE Water's supply area was extended so as to include a strategic development site known as 'Barking Riverside Phase 2+' which will be comprised of 661 new dwellings and associated facilities.
- 4 SSE Water is under a statutory duty to develop and maintain an efficient and economical system of water supply within its water supply area. As part of its duty, SSE Water must ensure that water is supplied to those that demand it within its licensed area and must extend and improve water mains and other pipes as necessary to service any increased demand. SSE Water is also under a statutory duty to provide, improve and extend the local public water sewer system, and to maintain and cleanse that system.
- 5 SSE Water is supportive of the project being promoted by TfL, but SSE Water is concerned to ensure that TfL proceeds in a manner which appropriately protects SSE Water's water and sewerage undertaking.

###### **Objection**

- 6 SSE Water 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 SSE Water has two fundamental issues with these protections:
  - (a) SSE Water's 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 water and sewerage undertakers, do not actually benefit its water and sewerage 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 SSE Water in the event that the draft Order is confirmed; and
  - (b) In any event SSE Water 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 SSE Water can be assured the proposed project does not prejudice its operations and ability to appropriately carry out its statutory duties.

- 7 SSE Water 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 SSE Water'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 of this Statement of Case, SSE Water is actively seeking to progress discussions with TfL to find a resolution as soon as possible.
- 9 SSE Water hopes that TfL will proceed in a cooperative manner so that SSE Water can withdraw its objection to the draft Order at the soonest opportunity. Discussions between SSE Water and TfL's respective legal teams are ongoing.
- 10 SSE Water 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 In the event SSE Water is left with no option but to pursue its objection to Inquiry, the company would wish to rely on:
- (a) the draft Order and associated documentation prepared by TfL;
  - (b) such further plans prepared by SSE Water showing the inter-relationship of the project and apparatus owned or proposed by SSE Water.

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22 July 2016