

## **ENERGY NATIONAL POLICY STATEMENT**

### **CALL FOR EVIDENCE**

#### **CADENT GAS LIMITED**

## **1. INTRODUCTION**

- 1.1 Cadent Gas Limited is the largest gas distribution company in the UK. We deliver fossil gas to 11 million homes and businesses throughout the North West, West Midlands, East Midlands, South Yorkshire, East of England and North London. In doing this we are responsible for maintaining our network, ensuring that it operates safely and reliably for those who rely on it. We also help homes, businesses and renewable gas suppliers connect to our network.
- 1.2 Cadent supports the commitment to net zero emissions by 2050. We know that the fossil gas we deliver through our network today is part of the problem and not part of the solution. Low carbon heating technologies need to be deployed across our network – and beyond.
- 1.3 Even as a gas network we are clear that there is a significant role for both heat pumps and low carbon heat networks in the future mix. We also believe that green gases such as hydrogen will be needed if we are to be successful. This requires us to consider where there might be a role for our gas distribution network and where there might not be.

## **2. CURRENT HYDROGEN PROJECTS**

- 2.1 Working with our industry, our hydrogen development work is accelerating. In addition to our work looking at blending hydrogen, HyNet will decarbonise heavy industry in the Cheshire, Liverpool and Manchester regions and potentially provide hydrogen to decarbonise domestic heat as part of a trial.

## **3. EFFECTIVENESS**

- 3.1 Cadent welcomes the analysis of the dynamic state of the energy supply sector and efforts towards de-carbonisation. As a nationally significant gas transmission provider, Cadent recognise that the transition to low-carbon alternatives is necessary and will require the re-purposing of transmission assets to help meet and facilitate these changes, meeting existing demand as well planning for future need
- 3.2 In general, Cadent consider that the draft energy NPSs do effectively: reflect the Government's policy proposals in the Energy White Paper; and support the Government's targets for net zero by 2050. In particular, the urgent need identified for all types of low carbon hydrogen infrastructure is welcomed.
- 3.3 However, Cadent consider that the NPSs could go further to provide support to the delivery of nationally significant infrastructure projects which achieve the Government's decarbonisation objectives. Cadent have identified four areas where they consider that the NPSs could provide such support. These are set out below.

## 4. AREA'S FOR FURTHER CONSIDERATION

### 4.1 Presumption in Favour

4.1.1 In particular, Cadent consider that the NPSs should identify a presumption in favour of the grant for energy projects which achieve the Government's need case for energy infrastructure to be expressed in the NPS in the strongest possible terms. The NPS must give a clear direction in this regard. Cadent does not consider the suite of draft NPS fully achieves that. Cadent recommends that BEIS reconsiders the NPS and gives more direction in relation to the weight to be applied to key impacts. The National Planning Policy Framework (NPPF) may assist here, which arguably contains a stronger presumption in favour of renewable energy development. It says the decision maker should "*approve the application if the impacts are (or can be made) acceptable*". However, Cadent's view is that the NPS should go further than this and recommend a weighting test (similar to that used for heritage matters) where the presumption is to grant consent unless the harm demonstrably outweighs the benefits.

### 4.2 Future Demand

4.2.1 Draft NPS EN-1 recognises, in relation to CCUS, that it will be appropriate to consider future demand and to authorise developments which are to some extent anticipatory. Paragraph 4.8.7 states: "*In considering applications, the Secretary of State should therefore, take into account that the government will expect applicants to take into account foreseeable future demand when considering the size and route of their investments and applicants may therefore propose pipelines with a greater capacity than demand at the time of consenting might suggest.*" Cadent's view is that this same principle should be expressly applied to hydrogen infrastructure. To give effect to this, we would recommend that the following policy statement is included within the final version of NPS EN-1:

4.2.2 "*Considerable investment in low carbon hydrogen pipelines will be required for the wider deployment of hydrogen. This investment could form the basis of more extensive hydrogen pipeline networks, which are likely to require greater capacity pipelines. In considering applications, the Secretary of State should therefore, take into account that the Government will expect applicants to consider reasonably foreseeable future demand when considering the size and route of their investments and applicants may therefore propose pipelines with a greater capacity than demand at the time of consenting might suggest.*"

### 4.3 Full Chain

4.3.1 For projects which are necessarily part of a chain, be it CCUS, hydrogen or other networks consents for different elements of the chain may need to be advocated separately. Currently, paragraph 4.8.6 of draft NPS EN-1 recognises, in relation to CCUS only, that it is likely a consent application will not be for the full chain but that "*development consent applications for power CCUS projects should include details of how the captured CO<sub>2</sub> is intended to be transported and stored, how cumulative impacts will be assessed and whether any necessary consents, permits and licences have been obtained.*" Previously the Secretary of State has refused a DCO application for part of a CCUS chain (Yorkshire and Humber CCS Cross Country Pipeline) because "*the Secretary of State does not consider that the Applicant has demonstrated a reasonable likelihood of CO<sub>2</sub> emitters connecting to the Development.*"

Consideration should be given to the provision of additional guidance on the tests which the Secretary of State, Planning Inspectorate and Applicant apply to provide sufficient confidence that the wider chain is technically and financially deliverable (see below).

4.3.2 As with CCUS, there are a number of links in the chain for the deployment of low carbon hydrogen infrastructure. The policy statement regarding the full chain of CCUS is welcomed in light of previous DCO decisions, and a similar policy statement is required to address the hydrogen chain. To give effect to this, we would recommend that the following policy statement is included within the final version of NPS EN-1:

(a) “The chain of hydrogen has a number of links: hydrogen production, capture of carbon, transport, and storage. Due to the approach of deploying hydrogen in clusters in the UK and differing regulatory regimes, it is likely that development consent applications for low carbon hydrogen infrastructure may not include an application for consent for the full hydrogen chain.”

4.3.3 There are a number of practical and legal reasons why consents for linked projects will be progressed separately, not least legal restrictions on the vertical integration of energy companies. It will be entirely necessary and appropriate for independent developers, especially those developing new technologies, to take some risk in making anticipatory investments promoting consents for projects which are contingent on others also in the development phase or on future need. Without this, there would be a “chicken and egg” situation which would hold back the urgently needed new energy infrastructure.

#### 4.4 **Section 20 of the Planning Act 2008**

4.4.1 Whilst the call for evidence is focussed on the energy national policy statement, Cadent also consider that Section 20 of the Planning Act 2008 (the **2008 Act**) could be amended to aid the delivery of low carbon hydrogen infrastructure. Section 20 provides as follows:

##### **20 Gas transporter pipe-lines**

(1) *The construction of a pipe-line by a gas transporter is within section 14(1)(f) only if (when constructed) each of the conditions in subsections (2) to (5) is expected to be met in relation to the pipe-line.*

(2) *The pipe-line must be wholly or partly in England.*

(3) *Either—*

*(a) the pipe-line must be more than 800 millimetres in diameter and more than 40 kilometres in length, or*

*(b) the construction of the pipe-line must be likely to have a significant effect on the environment.*

(4) *The pipe-line must have a design operating pressure of more than 7 bar gauge.*

(5) *The pipe-line must convey gas for supply (directly or indirectly) to at least 50,000 customers, or potential customers, of one or more gas suppliers.*

*(6) In the case of a pipe-line that (when constructed) will be only partly in England, the construction of the pipe-line is within section 14(1)(f) only to the extent that the pipe-line will (when constructed) be in England.*

*(7) “Gas supplier” has the same meaning as in Part 1 of the Gas Act 1986 (c 44) (see section 7A(11) of that Act).*

- 4.4.2 At present, Section 20(3)(b) of the 2008 Act provides that the development of a gas pipeline by Cadent could be a nationally significant infrastructure project in circumstances where the pipeline (when constructed) could give rise to a likely significant effect. This may act as a barrier to the deployment of low carbon hydrogen infrastructure, as short sections of pipeline which connect to the wider gas distribution network could be likely to have significant effects on the environment which would require them to be consented pursuant to the 2008 Act. Section 20(3)(b) of the 2008 Act is not replicated in relation to other energy infrastructure.
- 4.4.3 There are examples of short sections of gas pipeline which do give rise to likely significant effects and which are required to be consented pursuant to the 2008 Act. For example, Cadent is required to divert a gas pipeline as part of National Highways’ A428 Black Cat to Caxton Gibbet Improvements scheme. The diversion is underground, and is only 270m in length, yet it meets the definition of an NSIP and so requires a DCO because it has a likely significant effect on the environment.
- 4.4.4 Cadent does not consider that Section 20(3)(b) of the 2008 Act is necessary, or that short sections of gas pipeline infrastructure should qualify as NSIPs because they have likely significant effects on the environment. This may have serious time and cost consequences which prevent the deployment of low carbon hydrogen infrastructure given the extensive work required to prepare an application for an NSIP.
- 4.4.5 To address this, Cadent recommends that Section 20 of the 2008 Act is amended to delete Section 20(3)(b) of the 2008 Act. This would ensure that short sections of pipeline infrastructure could continue to be authorised as permitted development pursuant to The Town and Country Planning (General Permitted Development) (England) Order 2015 (the **GPDO**). Such short sections of pipeline would also remain subject to environmental assessment by virtue of The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (the **GTP EIA Regulations**).
- 4.4.6 This amendment would reflect Article 3(12) of the GPDO, which operates to preserve Cadent’s permitted development rights for gas pipelines even where such gas pipelines are EIA development. This would preserve the intention behind the 2008 Act, by ensuring that pipelines which are nationally significant remain subject to the regime, and would ensure consistency with the GPDO. Cadent consider that it would remove a potential barrier to the delivery of low carbon hydrogen infrastructure.