

Date: 13th December 2023

Cadent Gas Limited
Pilot Way Ansty Park
Coventry CV7 9JU
United Kingdom
cadentgas.com

Colin Whittaker
The Estate Office
Fiddler Hall
Newby Bridge
Cumbria
LA12 8NQ



Dear Mr Whittaker,

The Cadent Gas Limited (Whasset to Barrow High Pressure Gas Pipeline Diversion) Compulsory Purchase Order 2023 (the “Order”) and the pipeline diversion project (the “Project”)

I am writing further to our recent correspondence and in relation to your client’s objection dated 7 August 2023 (the “**Objection**”). Cadent have provided details in relation to the technical matters that were subject to the Objection (which Cadent had previously provided in 2021) and Cadent understand that the technical details are accepted and approved by your client. We appreciate that you confirmed this to the Inspector at the pre-inquiry meeting on 12 December 2023. In terms of matters of the approach to payments and compensation, we are writing to clarify the position. In terms of the timing of payments, this will depend on the timing for the construction of the Project. The construction of the Project is currently contingent on whether:

1. a voluntary agreement is concluded, and the timing of the conclusion of that voluntary agreement.
2. the Objection to the Order is withdrawn, and the timing of the withdrawal of that Objection; and
3. the Order is confirmed, and the timing of confirmation of the Order.

Voluntary Position

If voluntary agreements are concluded for the entire Project, then Cadent’s position is that it would carry out the Project pursuant to those voluntary agreements.

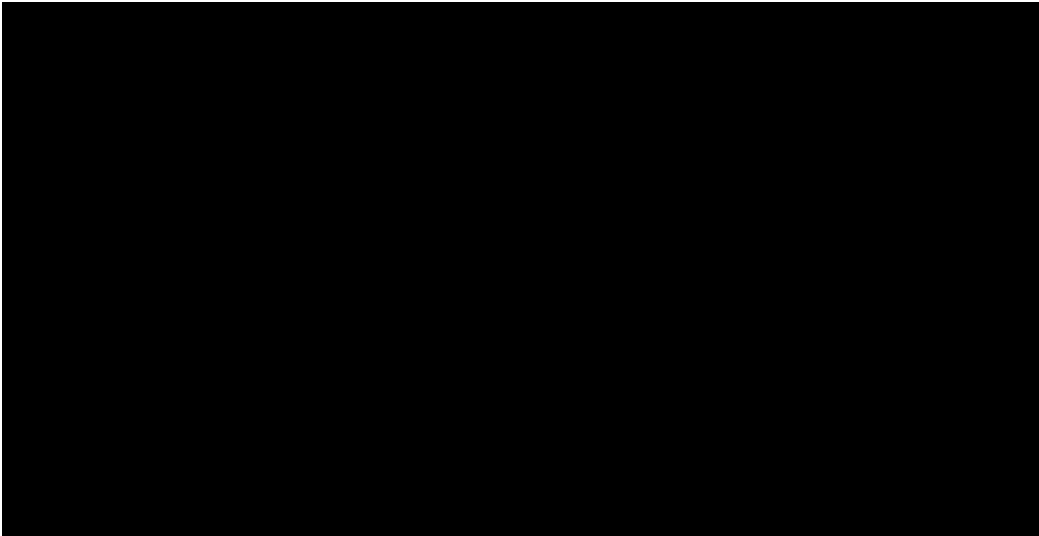
If Cadent has secured all of the voluntary agreements it requires, including an early access works licence, by January 2024 then it may undertake early works comprising pre-construction drainage in 2024 (in which case your client would be paid in accordance with any such licence). However, due to the delay associated with having to make the Order it is likely that the Project will not commence main works on the Project until 2025.

With regards to payment timings, Cadent do not know when they will be undertaking these works due to the Order’s Inquiry timeline and the need for subsequent Secretary of State confirmation of the Order. This means Cadent are unable to agree compensation upfront for the crop loss on your client’s land. Cadent’s approach would be to complete the works and settle compensation at the end once Cadent is aware of the disturbance, any damage caused, and time incurred. Please can you confirm you are happy with this approach?

[Redacted signature block]



Please find table below detailing the type of payment, the amount and when Cadent will be making the relevant payment to your client.



CPO Compensation

If a voluntary agreement is not concluded, and Cadent had to rely on the Order, then your client's right to compensation would be dependent on the timing of confirmation of the Order. It is likely that Cadent would not undertake works until 2025 if it had to rely on the Order.

If the Order is confirmed and Cadent exercises powers of compulsory acquisition pursuant to the Order in order to acquire rights over your client's land (because no voluntary agreement has been concluded), then your client will be entitled to compensation. Therefore, the right to compensation will not arise until the Order has been confirmed. Further detail in respect of the right to compensation is set out below.

Compensation

The right to compensation is established by the Land Compensation Act 1961 (the "**1961 Act**"). The right to compensation, and the procedure for assessing such compensation, are governed by a combination of legislation, case law and established practice known as the Compensation Code. The Compensation Code seeks to achieve equivalence: i.e., your client should be no worse off following the acquisition of rights in its land and the payment of compensation than it would be if the Project did not proceed at all.

The right to compensation would arise on the valuation date (as established in accordance with section 5A of the 1961 Act).

If Cadent exercise powers of compulsory acquisition pursuant to the Order, then Cadent and your client can agree the value of compensation payable at any time following the exercise of the powers of compulsory acquisition pursuant to the Order. Cadent would seek to reach agreement with your client.

If Cadent could not reach agreement with your client on the level of compensation payable, then either Cadent or your client may make a reference to the Upper Tribunal (Lands Chamber) (the "**Tribunal**"). This provides your client and Cadent with an independent process whereby the level of compensation can be independently determined.

There are two different procedures by which Cadent may exercise powers of compulsory acquisition pursuant to the Order. These two procedures are subject to different limitation periods for a reference to the Tribunal. If Cadent exercise powers of compulsory acquisition pursuant to the Order by:

1. making a general vesting declaration ("**GVD**"), then the limitation period for either party to make a reference to the Tribunal is established by section 10(3) of the Compulsory Purchase (Vesting Declarations) Act 1981 (the "**1981 Act**"). This is: "*6 years from the date at which the person claiming compensation, or a person under whom he derives title, first knew, or could reasonably be expected to have known, of the vesting of the interest by virtue of Part III of this Act*"; or

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National Gas Emergency Service

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*Calls will be recorded and may be monitored

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2. serving a notice to treat (“**NTT**”), then the limitation period for either party to make a reference to the Tribunal is established by section 9 of the Limitation Act 1980 (the “**1980 Act**”). This provides that: “*an action to recover any sum recoverable by virtue of any enactment shall not be brought after the expiration of six years from the date on which the cause of action accrued*”.

Cadent expects that if it needs to exercise powers of compulsory acquisition pursuant to the Order to deliver the Project, then it would do so by making a GVD. Therefore, the time limit for a reference to a tribunal is likely to be that pursuant to the 1981 Act. In practice, this will be 6 years after the vesting date on the basis that your client will have been notified of the vesting date when they are notified of the making of the GVD. If Cadent were to serve an NTT, then the cause of action would accrue from the date on which Cadent took entry to the land pursuant to section 11 of the Compulsory Purchase Act 1965.

In either circumstance, the procedure is regulated by The Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 (the “**Rules**”).

Advance Payment

If the Order is confirmed and Cadent exercises powers of compulsory acquisition pursuant to the Order in order to acquire rights over your client’s land (because no voluntary agreement has been concluded), your client would also have the right to request the advance payment of compensation pursuant to section 52 of the Land Compensation Act 1973 (the “**1973 Act**”). Subject to a qualifying request having been received by Cadent pursuant to section 52(2) of the 1973 Act, your client would then be entitled to 90% of the following amount:

1. if Cadent and your client have agreed on the amount of the compensation, the agreed amount.
2. in any other case, an amount equal to the compensation as estimated by Cadent.

Next Steps

It is important to note that matters of compensation are not relevant for the purpose of whether to confirm the Order and are not a valid basis for an objection to the Order.

Please do not hesitate to contact me Tom Bowling [REDACTED] or our appointed land agent Ellie-May Craddock [REDACTED] if you have any questions.

Yours sincerely

Tom Bowling

Head of Operational Land
Cadent Gas Limited

Cc to: Mr David Lowther