



Our ref: 13/0294

2 April 2013

RE: Freedom of Information Request – Reference 13/0294

Thank you for your freedom of information request of 1st March 2013 in which you asked for the following:

All contact and correspondence between ministers, their advisor and senior civil servants (head of department and above) at the Department for Energy and Climate Change with:

1. *EDF, and/or*
2. *Hitachi (also known as Horizon)*

regarding negotiations about a possible strike price for new nuclear energy, and who will meet the possible costs of decommissioning any new nuclear power stations. From 1 January 2012 to the present day.

We have searched for the information related to your request and have interpreted senior civil servants (head of department and above) as applying to Director General and above. We have identified that we hold information within the scope of your request. Please find attached:

- A list of contact and correspondence between DECC officials and EDF Energy including NNB GenCo (Annex A).
- A list of contact and correspondence between DECC officials and Hitachi/Horizon (Annex B)

In addition, a list of all meetings between external organisations and DECC ministers up to September 2012 can be found on the GOV.UK website (under Transparency and Freedom of Information) at this link:

https://www.gov.uk/government/publications?departments%5B%5D=department-of-energy-climate-change&publication_type=transparency-data

We also hold other information in relation to the meetings, and correspondence that fall within the scope of the request. Having carefully considered your request and the public interest arguments both in favour and against disclosure, we have come to the view that all of this documentation is exempt from disclosure under the Freedom of Information Act. Further detail on the arguments for and against disclosure is set out below.

There will be transparency over the terms of any Final Investment Contract (FID) offered to developers of low carbon electricity generation, including new nuclear plants. The Energy Bill requires DECC to publish in its entirety any Investment Contracts agreed subject to the exclusion of certain limited categories of information, but in the case of Hinkley Point C we have also committed to provide summaries of external analysis on the value for money of any contract agreed.

FOI exemption

Section 22

Information about ministerial meetings after September 2012 is exempt under Section 22 of the Freedom of Information Act as the information is intended for publication at a future date on the GOV.UK website at the above 'Transparency and Freedom of Information' web link. Section 22 is a qualified exemption and we have therefore considered the public interest test. There is a public interest in knowing information about ministerial meetings as this leads to greater transparency in government. However, the best use of public resources would be applied in pulling this information together, ensuring the information is accurate and published in a consistent and comprehensive format, rather than issuing it in a piecemeal fashion. This information is still being checked prior to publication. Please be assured that the Department is committed to publishing this information. Having considered the public interest test, the Department's

decision is to withhold the requested information on ministerial meetings after September 2012.

Section 41

Section 41(1) provides that information is exempt if disclosure of the information to the public by the public authority holding it would constitute a breach of confidence actionable by that or any other person. Some of the information requested is detailed information provided to the Department in confidence. This information is subject to a duty of confidence and disclosure of the information would constitute an actionable breach of confidence. We have therefore reached the view that the information is exempt from disclosure by virtue of section 41.

Section 43

Section 43(2) provides that information may be exempt information, subject to the public interest test, if the release of the information would, or would be likely to, prejudice the commercial interests of any person, including the public authority holding. Section 43(2) is a qualified exemption.

We are satisfied that the release of some of the information could damage and adversely affect the commercial position of EDF in the discussions on FID enabling for Hinkley Point C. Providing the information has the potential to reveal positions that have not been finalised, many of which may be price sensitive and as such has the potential to affect the market in a way that would not have been the case without release of the information. We have also considered the impact that releasing the information would have on maintaining the trust and confidence between the Department and companies who engage with us. If the Department does not respect such confidences its ability to engage meaningfully with companies and other stakeholders would be likely to be prejudiced resulting in damage to the Department's own commercial interests.

While there is general public interest in the disclosure of the information as greater transparency makes Government more accountable, account has to be taken of the need to ensure the commercial interests of third parties are not prejudiced or undermined by disclosure of information that is not common knowledge, and which could adversely impact on future business. Having considered the existing transparency requirements under the FID regime and

public interest, we are satisfied that the balance favours withholding the information.

Appeals procedure

If you are unhappy with the result of your request for information, you may request an internal review within two calendar months of the date of this letter. If you wish to request an internal review, please contact the Information Rights Unit (foi@decc.gsi.gov.uk).

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

If you have any queries about this letter, please contact me quoting the reference number above.

Yours sincerely

ANNEX A

Contact and correspondence between DECC & EDF

Ref	Date		Attendees
1.	01/03/2012	Meeting	Chris Nicholson, Katie Waring, SoS
2.	03/04/2012	Phone call	Chris Nicholson, Katie Waring, SoS
3.	10/04/2012	Phone call	Katie Waring
4.	11/05/2012	Meeting	Chris Nicholson, Katie Waring
5.	08/06/2012	Meeting	Katie Waring
6.	21/06/2012	Phone call	Chris Nicholson
7.	02/07/2012	Phone call	Chris Nicholson
8.	30/08/2012	Meeting	Chris Nicholson
9.	12/09/2012	Meeting	Chris Nicholson, Katie Waring, SoS
10.	26/10/2012	Meeting	Chris Nicholson
11.	06/11/2012	Letter	SoS
12.	08/01/2013	Meeting	Chris Nicholson, Katie Waring, SoS
13.	29/01/2013	Phone call	Chris Nicholson, Katie Waring, SoS
14.	07/02/2013	Meeting	Chris Nicholson
15.	07/02/2013	Meeting	Stephen Lovegrove,
16.	14/02/2013	Phone call	Chris Nicholson
17.	06/03/2013	Phone call	Stephen Lovegrove

ANNEX B

Contact and correspondence between DECC & Hitachi (Horizon)

Ref	Date		Attendees
1.	10/09/2012	Meeting	Chris Nicholson, Katie Waring, SoS
2.	27/11/2012	Meeting	Chris Nicholson, Katie Waring, SoS
3.	30/01/2013	Phone Call	Katie Waring, SoS