

**Memorandum of Understanding
between
The Office of Gas and Electricity Markets (Ofgem)
and The North Sea Transition Authority (NSTA)¹
on effective collaboration in regulating Carbon Capture and Storage
(CCS) Transport and Storage (T&S) projects**

1 Introduction and purpose of MoU

- 1.1 This Memorandum of Understanding (“**MoU**”) is between Ofgem and the NSTA (the “**Regulators**”).
- 1.2 Each Regulator is independent and has its own roles and responsibilities. Through this MoU we recognise the benefit of collaborating on certain matters in the regulation of CCS T&S projects.
- 1.3 This MoU provides a framework for effective collaboration between Ofgem and the NSTA in relation to our respective roles under and in connection with the development and regulation of CCS T&S projects.
- 1.4 The purpose of the MoU is to facilitate effective collaboration between us in the exercise of our respective powers, and roles, in acting as independent bodies in relation to the development and regulation of CCS T&S projects. By engaging with each other on a regular basis and better understanding our respective roles and responsibilities, we can achieve more effective and more timely delivery of outcomes and avoid duplication.
- 1.5 This MoU also provides the framework and principles for collaboration on other issues, such as platform electrification.
- 1.6 This MoU is not legally binding and is non-exhaustive. It does not constitute a legally binding contract between the Regulators or give rise to legally enforceable rights or obligations. It represents the intentions of the Regulators to utilise collaboration to efficiently exercise their respective functions.
- 1.7 The Regulators recognise that there are likely to be further areas of work in the future which will require the Regulators to work together. The Regulators agree that should any such work be required, they will adhere, so far as practicable and appropriate, to the principles set out in this MoU until such time as this MoU is amended to reflect any additional work.

2 Regulators’ Roles and Enforcement Powers

- 2.1 Each of Ofgem and the NSTA’s roles in respect of CCS T&S are defined, or in respect of

¹ North Sea Transition Authority is a business name of the Oil and Gas Authority. Oil and Gas Authority is a limited company registered in England and Wales with registered number 09666504 and VAT registered number 249433979. Our registered office is at 21 Bloomsbury Street, London, WC1B 3HF.

Ofgem will be defined, in statute – principally (among others) the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Energy Act 2011, the Energy Act 2008, the Energy Act 2016 and the Petroleum Act 1998 (in each case as amended).

- 2.2 Ofgem acts on behalf of the Gas and Electricity Markets Authority. The existing role of Ofgem is to protect consumer interests and promote value for money and effective competition in relation to the provision of electricity, electricity interconnectors and gas through pipes. Once Carbon Capture Usage and Storage (CCUS) legislation comes into force, Ofgem’s role and associated powers will be amended accordingly with adjustments to accommodate CCS T&S projects. As has been set out by Government, Ofgem will issue the economic licence to T&S companies.
- 2.3 Ofgem has enforcement powers under, amongst others, the Gas Act 1986, the Electricity Act 1989, the Competition Act 1998 and the Enterprise Act 2002. It has authority to act where the conditions of licences granted by Ofgem are breached or where there is non-compliance with competition or consumer protection legislation and has the power to carry out market reviews and make market investigation referrals to the Competition and Markets Authority.
- 2.4 In respect of CCS, the NSTA is the licensing and permitting authority for issuing Carbon Dioxide Appraisal and Storage licences and Storage permits thereunder, including in support of industry progress and wider government objectives.
- 2.5 The NSTA regulates offshore carbon dioxide storage as set out in the Energy Act 2008. This role includes (but is not limited to) acting as the licensing authority, approving and issuing storage permits, taking applicable financial security under the storage permit, and maintaining the carbon storage public register. The NSTA identifies, assesses and understands UKCS regional carbon storage opportunities in support of CCS build out and spatial planning. The NSTA also has enforcement powers under the Energy Act 2008 in respect of CCS activities, including where there has been a failure to comply with a provision of the licence and failure to comply with a direction given to a licence holder by the NSTA.
- 2.6 When exercising its functions, the NSTA is required under the Energy Act 2016, so far as is relevant, to have regard (among other matters) to the development and use of facilities for the storage of carbon dioxide, and of anything else (including, in particular, pipelines) needed in connection with the development and use of such facilities.
- 2.7 The NSTA regulates and influences the oil, gas and carbon storage industries, and works with industry and Government to identify synergies and promote opportunities as appropriate, including where development of carbon dioxide storage and platform electrification can assist the move to net zero by 2050.

3 Priorities for effective collaboration in regulating CCS T&S projects

- 3.1 Each Regulator will seek to achieve the following priorities to the extent of our respective roles in the context of the CCS T&S projects:
 - 3.1.1 Collaboration with government, including in meeting its objectives for a CCUS T&S network. At the time of publication of this MoU, these include:
 - (i) establishing a new Carbon Capture Usage and Storage sector,
 - (ii) enabling low-cost decarbonisation in multiple sectors, and,
 - (iii) developing a market for carbon capture².
 - 3.1.2 effective and efficient engagement by the Regulators with each other, with HMG, with CCS development companies and other relevant stakeholders, as relevant;
 - 3.1.3 for each Regulator, in the exercise of its regulatory powers with regard to the CCS T&S projects, to be aware of the objectives and requirements of other regulators and avoid unnecessary misalignment or inefficiency so far as possible and appropriate to do so; and

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/946561/ccus-business-models-commercial-update.pdf

3.1.4 to share, wherever practicable and lawful, information, expertise and knowledge where doing so will improve the overall efficiency of regulation.

3.2 Where a Regulator's guidance, permit conditions or enforcement activity clearly impacts upon the statutory duties or areas of competence of another Regulator in the context of CCS T&S projects, save for any emergencies, then before making their respective decisions, the relevant Regulator shall, subject to any applicable restrictions or limitations under law or any agreement, and where practicable and appropriate to do so, together discuss areas of overlap or potential conflict and possible outcomes. This collaboration will be achieved by applying the working principles set out in paragraph 4 and any such joint working agreements and protocols as may be agreed between the Regulators pursuant to this MoU.

3.3 The Regulators will seek to:

3.3.1 Where appropriate and practicable, undertake early engagement with each other to minimise uncertainties and impact from potentially conflicting requirements;

3.3.2 Minimise duplication of activity; and

3.3.3 Maintain public confidence in the regulatory system.

4 Working Arrangements

4.1 The Regulators will produce internal joint guidance (to support this MoU) as necessary to support collaboration in key areas where there are joint, sequential, or overlapping regulatory activities. This could also take the form of a RACI (Responsible, Accountable, Consulted, Informed) matrix to structure future areas of work.

4.2 Such collaboration will be built on mutual trust and respect, and on the following principles:

4.2.1 Save in cases of urgency/emergency, each Regulator will enable early engagement on any issues or matters which are likely to materially affect the other Regulator and will take account of the other Regulator's views where it is appropriate to do so;

4.2.2 Where a Regulator intends to take enforcement action and/or revoke any licences or permits within the scope of their own regulatory powers that may affect the other Regulator, it shall inform the other Regulator prior to acting where such enforcement action and/or revocation would affect the functions of the other Regulator, except in the case of an emergency;

4.2.3 Where a Regulator intends to issue or vary any licences or permits within the scope of their own regulatory powers that may affect the other Regulator, it shall inform the other Regulator prior to acting where such issuing or variation would affect the functions of the other Regulator, except in the case of an emergency;

4.2.4 The Regulators will establish mechanisms and methods of collaboration which facilitate dialogue and encourage better regulation, including in the sharing of information and analysis where appropriate to do so. Regulators should agree a secure mechanism to share information with each other to minimise duplication and contradiction;

4.2.5 A nominee from each of the Regulators' senior leadership teams will meet to establish accountabilities and agree arrangements for collaborating. These arrangements will be through, amongst others, regular (no less than quarterly) meetings of the teams working on any individual project;

4.2.6 Where a decision impacting the relationship between the Regulators is reached through any of the processes established under this paragraph 4 by the Regulators, each Regulator will be responsible for communicating that decision and its objectives to, and (to the extent required) oversee that it is observed by, the Regulator's respective team members.

4.3 The Regulators will endeavour to collaborate to develop appropriate responses to potential unexpected events and significant licence events under the licences awarded by either Ofgem or the NSTA.

5 Information sharing and disclosure

- 5.1** Information collected by the Regulators pursuant to their respective roles will be shared between the Regulators on matters of common interest for the purposes of supporting the priorities set out in paragraph 3 above, unless such sharing is prohibited by law and provided it is appropriate to do so in the circumstances.
- 5.2** Subject to any disclosure of information between the Regulators or required or permitted by law, each Regulator will continue to observe confidentiality and data privacy in relation to shared information that is not in the public domain.

6 Review of MoU

The senior management of the Regulators will review this MoU with the intention to replace the MoU with a more substantial MoU once relevant (Government) decisions on roles and responsibilities are solidified. This MoU may only be modified in writing by the Regulators.

Signatures

Zak Rich, Date 01 April 2022
Deputy Director, Low Carbon RAB, The Office of Gas and Electricity Markets

Hedvig Ljungerud, Date 01 April 2022
Director of Strategy, North Sea Transition Authority