



27th October 2004

Steve Smith
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Dear Steve

BG Group Response to Consultation on an application by South Hook LNG Terminal Company Ltd. for an exemption from Section 19D of the Gas Act 1986

1. BG Group ("BG") welcomes the opportunity to comment on the above consultation. BG is active in the UK market as both a gas producer, and as a gas shipper. BG is also involved in the Dragon LNG project which plans to develop an LNG import terminal at Milford Haven. BG has been actively involved in the discussions which have led to the development of the regulatory framework for LNG terminals in the UK. BG is keen to ensure that a regulatory framework is in place which enables companies to invest to meet the UK's future gas supply needs, whilst ensuring that the UK continues to enjoy the benefits of a competitive gas market. In light of this BG has the following comments on the Draft Exemption Order.

Section D . Conditions.

2. BG notes that paragraph 4 of this Section would require an LNG facility owner to make publicly available "such information as the Authority determines is reasonable". Whilst BG appreciates Ofgem's efforts to ensure that there is an efficient UK gas market through provision of information, BG believes this paragraph is too broadly drafted. As BG has made clear in other consultation responses ("*BG Group plc Response to Consultation on a possible derogation to Standard Condition 4E of Transco's Gas Transporter's Licence*" 31st March 2004; "*BG Group Response to Consultation on Interconnector Licences : Determination of Standard Licence Conditions and Proposed Exemption Regime July 2004*" 13th August 2004), BG is concerned that regulatory requirements should not prejudice individual companies' commercial positions through the release of disaggregated or commercially confidential information.
3. BG notes the agreement reached between gas producers, Transco, the DTI and Ofgem concerning the publication of information relating to gas flows from beach terminals onto the NTS. Under this agreement information is to be published to the market in aggregated form only. BG therefore believes that it would be appropriate for LNG terminals to be required only to publish information at a level of detail consistent with other terminals. BG welcomes the fact that Ofgem has recognised the issue in its letter of 13th October 2004, which stated that Ofgem's current view is that South Hook would "only be required to

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disclose information consistent with other facility operators”.

However BG believes that such an approach should also be reflected in the wording of the Exemption Orders relating to LNG terminals such as South Hook or Dragon LNG.

Section E. Revocation.

4. As Ofgem is aware project developers have placed considerable store on a stable regulatory framework. An important part of this is the understanding of what circumstances would lead to a revocation of an exemption. In its letter of 10th February 2004 to ExxonMobil on the informal exemption request by South Hook, Ofgem stated that : “In the case of a material breach of the exemption criteria or a proven breach of competition law, it would be necessary to establish that such breaches had occurred and we would also envisage that an opportunity is provided to remedy such breaches (that are capable of being remedied) before an exemption were withdrawn or modified.” The same wording was used in Ofgem’s letter of 23rd June 2004 to Petroplus Tankstorage Milford Haven Ltd, concerning Dragon LNG’s informal exemption request.
5. However BG notes that this wording is not reflected in the Draft Exemption Order for South Hook. BG believes it is important that exempted LNG terminals should have the opportunity to remedy any possible breaches rather than immediately lose exemption status because of the consequences this would have, not only for the affected terminal and related throughput contracts, but also for the wider UK gas market. BG does not believe it makes sense for supplies to the UK to be jeopardised by immediate exemption revocation when there could be an opportunity to remedy any breaches. Lack of such an opportunity to remedy breaches heightens the regulatory risk for project developers and lenders.
6. BG welcomes Ofgem’s recognition of this issue in its letter of 13th October 2004 which stated that revocation of an exemption would not be automatic and that it “would be open to Ofgem to review the appropriateness of the exemption remaining in place”. However for the avoidance of doubt BG believes that the wording in Ofgem’s letters of 10th February 2004 and 23rd June 2004 should be reflected in the Exemption Order(s) relating to LNG terminals.
7. BG believes that its proposals should help ensure that the UK has a regulatory framework that enables future investment in infrastructure whilst being compatible with an efficient and competitive UK gas market. Such a framework can only become more important as the UK becomes a net importer of gas. Should you have any questions on the contents of this letter please do not hesitate to contact me on 0118 929 3442.

Yours sincerely,

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Regulation Manager