Gas Directive Exemption for a Proposed LNG Terminal at
Milford Haven

Steve Smith
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Dear Steve

Consultation on an application by South Hook LNG Terminal Company Ltd (SHTCL) (owned by Qatar Petroleum and ExxonMobil) under section 19C of the Gas Act 1986 for an exemption from section 19D of the Gas Act 1986

Thank you for giving EDF Energy the opportunity to respond to Ofgem's consultation on South Hook LNG Terminal Company Ltd (SHTCL's) formal application for an exemption from regulated third party access (RTPA) for their proposed LNG terminal at Milford Haven. EDF Energy responded to Ofgem's initial consultation in November 2003 and notes now that the application has not materially changed from the draft application and, therefore, that Ofgem maintains its previous view that all criteria for the granting of an exemption have been satisfied.

However, EDF Energy still has some concerns regarding the treatment of the capacity in secondary markets and appropriate anti-hoarding mechanisms, together with the treatment of information necessary in order to formally exempt the capacity to avoid it being revoked at a later date. Our views are laid out below and apply to all LNG import terminal exemption requests. We should like to know Ofgem's opinion on these issues before SHTCL is granted a formal exemption from the Gas Act.

Secondary market for LNG capacity

EDF Energy notes from reading SHTCL's submission that it intends to do all that is necessary to create a secondary market for any unused capacity so that all capacity is made available to the market. However, it is unclear as to how they propose to do this and how it will work in practice. Given that the devil is always in the detail, it would be useful to have some scenarios plotting out

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some realistic events where unused capacity would not be left sterilised in the market. Since LNG shipments are dedicated supplies, as there is currently no liquid spot market for the product, it would seem reasonable to request a long-term secondary market for unused capacity, say for a week or more. This would enable the market to respond to the extra unused capacity and contract the physical gas to supply through the LNG import terminal. In this respect, we welcome SHTCL's example of using an electronic bulletin board for a non-discriminatory tender process, but would welcome more detail on what type of contracts could be struck far in advance, so that shippers new to this market have a chance to understand the technical terms and conditions involved.

Appropriate "use-it-or-lose-it" (UIOLI) mechanisms

Similarly, EDF Energy would like to see more detail regarding the types of UIOLI arrangements that SHTCL will be implementing, as the timing and structure of these could lessen competition for these services. For example, we do not believe that a day-ahead UIOLI mechanism would guarantee the efficient allocation and use of unused capacity. This is because there would not be enough time to strike contracts for physical gas to replace the LNG shipment that was originally going to this capacity. Currently there is no liquid market for spot trading of LNG cargoes, and so one would assume that it may take up to a week or more to trade physical gas supplies around available capacities. We therefore recommend a UIOLI mechanism that makes the capacity available on a week-ahead basis so that the market has enough time to use the capacity efficiently.

LNG supply contracts

EDF Energy notes that SHTCL has requested that all capacity for both phases of the project, amounting to 21BCM, be exempt and that Ofgem has initially granted its consent. EDF Energy also notes that supplies to fulfil this capacity have already been purchased on a long-term contract basis. However, we are concerned that the same shipper, ExxonMobil in this case, will have 100% of the supply capacity as well as 100% of the physical supply contracts and think that there may be competition issues that need addressing here.

We also note that a third party is interested in participating in the project, a fact which was not brought to light in the original application, and we wonder what material effect this might have on competition for these services going forward. We would welcome Ofgem's view on this matter as any dominant positioning in what will become a major source of future supplies going forward may lead to a lessening of competition.

Publication of information

EDF Energy believes that SHTCL should be subject to the same obligations as other terminal operators and as such be part of the DTI's Information Release programme. We recognise the fact that the publication of certain commercial data could commercially prejudice the efficient functioning of the facility and, subject to Ofgem's satisfaction, we respect the fact that such data should not be disclosed. However, we question the timing of the publication of data, as publication after the day may not provide sufficient assurance for shippers who wish to compete for similar services, and think that careful consideration must be given to the value of ex-ante information provision.

Conclusions

In conclusion, EDF Energy supports further analysis with respect to the issues raised above and reiterates its stance that a formal exemption from the Gas Act and RTPA should only be granted where there is no threat to competition. The UK gas market is currently going through a critical phase of unprecedented high prices and tight supply margins, and while we believe that LNG import facilities should be built to increase security of supply, this must not be at the cost of effective competition.

We hope that you will find these comments helpful. If you would like to discuss any of the issues raised in our response, please contact either me on 0207 752 2199 or John Costa on 0207 752 2522.

Yours sincerely

Roger Barnard

Regulatory Law Manager