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27 October 2004

Mr. Steve Smith  
Managing Director, Markets  
Ofgem  
Millbank  
London

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**

ExxonMobil International Limited is writing on behalf of South Hook Terminal Company Limited to provide comments on the draft Exemption Order included by Ofgem as part of the consultation on the South Hook exemption application.

Generally, the text of the draft Exemption Order is, for most of the conditions, materially consistent with the conditions specified in Ofgem's Comfort Letter dated 10th February.

Ofgem have proposed the inclusion of certain conditions relating to information disclosure. Ofgem, helpfully explains in its Initial Views that accompany the application that "*with respect to information disclosure requirements, Ofgem's current view is that SHTCL would only be required to disclose information consistent with other facility operators. Where such information disclosure impinged on commercial confidentiality, it would be for the facility operator to demonstrate that its disclosure would seriously and prejudicially affect their commercial interests.*"

In the case of public disclosure obligations, we believe that the principle of equivalence should at least apply as between facility operators (whether terminal processing, LNG, storage or interconnector) and irrespective of whether regulatory powers are exercised by the DTI or the Authority. We welcome co-ordination between the DTI and Ofgem to ensure that the Secretary of State and the Authority hold similar, but not duplicate, powers according to whichever is the regulating authority. They should also co-ordinate the exercise of such powers in an equivalent way on equivalent timescales where consultation is required or is prudent. In this respect, disclosure conditions within an RTPA Exemption Order should be

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distinct and separate from those in for example, a PGT License Exemption Order where the exemption order also applies to a Facility that is connected to and flows processed gas to Transco's network.

Hence for clarity and balance, we believe that it is reasonable to request Ofgem to include additional drafting within Condition 5 (Public Disclosure) that reflects the principle of equivalence as discussed above in relation to all facility operators. In addition, we believe that the Authority should not have unfettered discretion in the exercise of its powers under this Condition and that in particular, it should not have the power to direct any disclosure that would or could place the facility operators, owners or throughputters in breach of competition law or which would likely seriously or prejudicially affect their commercial interests.

As far as Section E is concerned (**Revocation**) there are two comments that we would wish Ofgem to consider when finalising the text.

1. It is possible that information may be sought that is either not available or could not be available in time and that, as drafted, this could provide an ability for a regulatory authority to revoke the exemption. Whilst we do not necessarily believe that this would ever happen, the risk is substantially removed if the equivalence principle and the additional brakes on Condition 5 can be accommodated in the way discussed above.
2. The opportunity to remedy a failure against any of the specified Conditions prior to revocation was referenced in Ofgem's Comfort Letter of 12<sup>th</sup> February 2004. To the extent that Ofgem prior to expiry of the minimum notice period for revocation (4 months) is content that action is being taken, we would assume that Ofgem would not take the revocation action. We believe it is appropriate that this principle is reflected in the language of the Exemption Order.

Attached is a form of the Exemption Order that we have marked up reflecting the comments above and we hope this is helpful in illustrating the points which we have referred to in this letter.

Please let us know if we can clarify any of the above.

A handwritten signature in blue ink, appearing to read "Peter Chubb".