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27 June 2005
Sonia Brown
Ofgem
9 Millbank
London
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Impact Assessment regarding 3rd Party Proposal for the Publication of Near to Real Time Data at UK Sub-Terminals: Modification reference number UNC 006 (727)

Dear Sonia

Thank you for the opportunity for ExxonMobil to comment on the Ofgem Impact Assessment of the 3rd Party Proposal for the Publication of Near to Real Time Data at UK Sub-Terminals.

Before responding on some of the more detailed points on this impact assessment we think it is important for all concerned to understand the incremental extent of this modification proposal in relation to recent agreements on provision of information. The Modification UNC 006, if implemented, will move from an hourly provision of aggregated information at national and North/South zones to information provided at sub-terminals on a frequency (to be determined) of less than one hour.

We do not believe that this impact assessment has sufficiently demonstrated that this Mod will be of overall benefit to the market. Ofgem is failing to have regard to the requirement under the Energy Act that regulatory activities should, amongst others, be proportionate and targeted only at cases where action is needed. ExxonMobil would maintain that the regulatory activities involved in this Mod are not proportionate to the impact this Mod will have and certainly that the case for this incremental action has not been made, especially as there is no operating experience yet based on the baseline reference.

Our view is that the regulator's objective of promoting an effective market has been replaced by one of seeking a perfect market by supporting ever more marginal modifications. We are of the opinion that this impact assessment has many of the less desirable traits identified in Ofgem's recent review of Regulatory Impact Assessments by the Regulatory Policy Institute. Namely that there is an "inbuilt bias toward placing more weight on evidence that corroborates, or is consistent with, a maintained position than on evidence that tends to contradict it". Ofgem has moved a long way in reducing the assessed benefits from

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27 June 2005

Page 2

in excess of £200M per year to around £6M per year, a level at which there must be considerable doubt that these benefits will materialize at all. Risk, liability exposure and unintended consequences will remain if this Mod is to be implemented.

It was only in May 2004, after nearly two years of discussions, that agreement was reached between the DTI, Ofgem and UKOOA on provision of additional information to better inform the market. We remain of the view that expenditure of further resource is unwarranted until some time after full implementation of the industry agreement which is only completed in July 2005. In the Review of Ofgem Regulatory Impact Assessments comments are made that the do nothing option is not considered enough; we would advocate the view "Do nothing now, *monitor the situation*, and then act if the new evidence accumulated so indicates" [Pg 17] Emphasis added

We trust that our views will be taken into consideration and that Ofgem will quickly draw this matter to a close by rejecting this Mod proposal. If you require any further clarification please do not hesitate to contact me

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Crane', with a stylized flourish at the end.

Chris Crane

More detailed points:

1. Schematic Illustration Fig 5.2

We are of the view that this method of representation is to be avoided; our opinion is this is a gross misrepresentation of the potential benefits of the proposed marginal improvement in information. To illustrate that the benefit of the mod proposal is equivalent to all the existing information available is a distorted view of the benefits. We also note that the reference point is to achieve the benefits of "Perfect Information" we were of the opinion that Ofgem's objective was to provide effective competition not necessarily to seek a theoretical perfect market at any costs.

2. Baseline

We support the view that the baseline is the full implementation of the information agreed under the joint industry discussions which should also include the derogation to the Transco license Standard Condition 4E to protect the continue provision of TBE information.

3. Summer 2003 Interruption

We support Ofgem's view that "it was likely the magnitude of the benefit in this situation would have been small" as we understand the events Transco did place bids on the OCM but there was no action and Transco chose to interrupt customers in preference to using the more costly LNG at Isle of Grain. There is no evidence that the provision of subterminal flows would have changed the course of action taken.

4. System balancing

It is worth noting the foot note on Pg 11 of the Review of Ofgem Regulatory Impact assessments; "In an uncertain world it is often not difficult, by making some apparently modest adjustment to assumptions, to bring estimated net benefits in line with a preferred decision" Firstly were the comments made by Transco Draft Mod Report Pg 31 referring to the cashout price differentials defaulting to the fixed differential included in the benefit estimate? Secondly, the benefits seem to include knowledge "of the magnitude and expected duration of any offshore outage" something that does not exist today for those directly affected and hence which the proposal will not provide. Indeed in several places there is the implication that the proposal will provide future gas availability. There are many reasons why this will not be the case, shipper nominations and well performance decline being just two. Lastly why has an arbitrary value of 50% been taken? If the real time information proposed is provided at 1 minute intervals (we support Ofgem that this timing has not been made clear yet) then against the hourly information that will be provided the benefit is only 1/60 ie less than £100K!

5. Comparison to Electricity market

We note with interest that it has now been shown that similar information is not available in the electricity market, Ofgem have changed their view and disregard the comparison as being important. This is contrary to the argument Ofgem has used in the past.

6. Market volatility

Ofgem has based the benefit on market volatility from a “selected” value of £3.8M in the Oxera report. Whilst Oxera used a range of £3.8M to £17.3M for increased information this covered BOTH the information agreed under the joint industry discussions and the Mod proposal in question. Oxera also indicated it was not possible to allocate the proportion of this benefit to the mod proposal alone giving a wide range of 10% to 90%. Hence we would have expected this uncertainty to be expressed by Ofgem as a benefit of > £380K rather than >£3.8M

7. Security of Supply

On arguably one of the most important aspects of an impact assessment the analysis appears remarkably brief. Our opinion is that the proposed information will do very little to promote short term security of supply compared to the information that will be available in July. On long term security of supply there will be de minimus impact and Ofgem would be better advised to pursue the derogation to the Transco License Standard Condition 4E to protect the information required for the long term planning in Transco’s Transporting Britain’s Energy exercise.

8. Liability and data ownership and contract renegotiation

The provision of market sensitive information raises complex questions as to potential liability. The potential for such liability is likely to see information providers seeking indemnities against potential losses, disclaimers as to the accuracy or reliability of information provided or arrangements that might otherwise add costs into the system. Ofgem and Transco must be confident that the benefits of providing this incremental information outweigh the potential risks of liability and/or costly contract renegotiations.

9. General matters

The Europe Transportation and Regulatory function within ExxonMobil International Limited (ExxonMobil) has the responsibility, amongst others, of advising ExxonMobil affiliated companies within Europe on gas transportation and related legislative and regulatory activities. In that capacity, EMIL is, by this letter, providing a response for and on behalf of an ExxonMobil affiliate Shipper (ExxonMobil Gas Marketing Europe Limited); Delivery Facility Operator, (Mobil North Sea Limited); and Producers (Esso Exploration Production UK Limited, Mobil North Sea Limited and Superior Oil UK Limited). To the extent that individual responses are used to determine a majority, this letter should be taken as an individual response for each company in its respective capacity.

UKOOA, the offshore operators trade association has also made a response and we fully support the points that they raise and the conclusions they draw.