

**Viridian Energy  
Limited**

Mill House,  
Ashtown Gate, Navan Road, Dublin 15

30<sup>th</sup> January 2006

Robert Hull  
Director, Transmission  
Office of Gas and Electricity Markets (OFGEM)  
9 Millbank  
London  
SW1P 3GE.

**Ref: Response to Second Consultation - Comments on “Transmission Price Control review – second consultation” dated December 2005**

Dear Mr. Hull,

Viridian, as an active shipper in the Irish Gas System, are directly affected by any change to the existing NTS rules particularly to the extent that they affect treatment of the Moffat exit point. We note that there has been no consultation on the island of Ireland on the significant changes that are being proposed in the referenced document.

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**General Comments**

- (A)** The consultation document does not address compliance with the general aims and focus of the EU integration of Gas Markets. We assume that promotion of energy trade between member states would take precedence over any efficiency argument from a domestic GB point of view. Bearing this in mind any proposal for exit reform other than Option Ex1 is potentially contrary to the general thrust and intent of EU regulation concerning the harmonization of gas markets.
- (B)** Following on from comment (A) above, can Ofgem confirm that they have consulted with DG Comp in relation to the content of this consultation document to seek their view as to whether or not it meets their objective of a harmonized European gas market.
- (C)** To be a truly effective and proper consultation process we urge OFGEM to engage in direct consultation with the regulatory authorities with other member states affected by any proposed changes to the operation of the gas regime.
- (D)** The gas community in GB, and gas users from other jurisdictions connected to the GB gas market, do not appear to be against the idea of providing better signals to Transco of likely gas system usage into the future. However there is significant concern among industry about the administration burden and unpragmatic nature of a flexibility product separate from the capacity product, and we share this concern. Such a regime is particularly unsuited to an Inter-connector between two member states and Ofgem are asked to consider the unique nature of such users.

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**Specific Comments:**

**Comments on Section 6.5** – Ofgems range of objectives

Viridian would suggest the following in relation to the drafted range of objectives which OFGEM have detailed in this section 6.5.

- (1) **Compliance with applicable legal requirements:** It is suggested that one of the foremost considerations in regard to this objective should be compliance with EU regulations and Directives. In this regard attention is drawn to Regulation EU/1775 where it could be suggested that if Ofgem were to decide to proceed to implement any option other than Option Ex1 as detailed in Section 7 of the paper, there may be conflicts with this EU Regulation. Possible areas which should be considered in order to avoid concern in this regard include;
- a. **Article 3, Section 1** states “*cross subsidies between network users*” should be avoided. Analysis of the proposed options other than Option Ex1 as detailed in this paper appear to indicate that it is highly likely Transco will over-recover its revenues. In particular analysis shows that shippers downstream of the Moffat Exit Point (to Ireland, Northern Ireland and the Isle of Man) are likely to pay noticeably more than other NTS Shippers without the benefit of any smear back provisions under the UNC as most such shippers are not a party to the UNC Code. Any potential inability to obtain any benefit from this overpayment could in effect be considered a potential form of cross subsidy and action should be taken to ensure it does not occur.
  - b. **Article 3, Section 2** states “*market liquidity*” should not be restricted, nor “*trade across borders of different transmission systems*” should not be distorted or hampered. The big issue for shippers downstream of Moffat Exit Point from the NTS is that any of the proposals outlined in Section 7 other than the Option Ex1 (the Status Quo option) will certainly impose greater risks for NTS shippers doing business either themselves, or with downstream counter-parties, at the Moffat Exit Point. This is certain to reduce the number of “players” willing to do business at Moffat and, as such, reduce the number of counter-parties with which shippers in Ireland, Northern Ireland and Isle of Man gas markets can trade. This will restrict trade and limit market liquidity. This is a serious concern for users in Ireland and should be considered thoroughly. The existing arrangements in place at Moffat were put in place precisely to restrict this risk so as to encourage parties to trade at Moffat.
  - c. **Article 5 Section 2** states that “*Transmission system operators shall implement and publish non-discriminatory and transparent capacity allocation mechanisms which shall be compatible with the network access systems of the Member states*”. It is apparent that any move away from the status quo (i.e. Option Ex1) will be a move the GB market to something that is completely different to the regime currently operated in Ireland, Northern Ireland and the Isle of Man, and Ofgem are asked to consider this carefully before any decision is taken.
  - d. **Article 9 Section 3** states “*The application .... of Guidelines adopted pursuant to this Regulation shall reflect differences between national gas systems, and shall therefore not require uniform detailed terms and conditions of third party access at Community Level.*” This section appears to allow Ofgem to take account of the unique nature of the of an Exit Point like Moffat which connects to another member state when deciding on a regime for exit rules i.e. Moffat is only a taker of gas from NTS, it supplies three (3) jurisdictions, there are intergovernmental treaties in place at this point, etc.
  - e. **Article 10** states “*Where appropriate they (regulatory authorities) shall cooperate with each other and with the Commission.*” This would appear to suggest that if Ofgem put forward any proposed changes to the gas system rules in the UK that are likely to affect the use of the gas systems in other jurisdictions/member states (Ireland, Northern Ireland and the Isle of Man) they should cooperate with and agree such changes with the regulatory authorities in these jurisdictions in order to finalise any such rules.
- (2) Following on from the objective entitled “**Promotion of Competition**” as the gas markets in Ireland, Northern Ireland, and the Isle of Man are very much in their infancy, dramatic changes to the rules in operation at the Moffat Exit Point today are likely to have serious ramifications in relation to restricting the growth of competition in these markets due to the uncertainties surrounding access to the GB system. A Status Quo option appears to be the only option that

will give these embryonic gas markets in these jurisdictions a chance of developing (as Option Ex1 did for GB to date).

- (3) In relation to “**Preservation of security of Supply**” this must be considered in terms of the effect any exit reform Ofgem might propose might have on gas users in Ireland, Northern Ireland and Isle of Man. With the proposed scrapping of the capacity register regime which is currently in operation at the Moffat exit point, and the ability to book capacity year ahead without having to commit longer term capacity and/or flexibility products, there are serious concerns in relation to the ability of these jurisdictions to be able to secure supply to meet their needs. Ofgem is aware of these concerns as they have been made aware of same in the past and are as such asked to consider such concerns during this consultation.
- (4) Any solution should be designed to be easy to understand and above all actually workable for all affected parties. If a proposed solution is not workable for any party/parties then the rules should facilitate that party/those parties so as to achieve the higher aim of not unduly discrimination but achieving a workable solution.

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**Comments in relation to Section 7.7** and the various options detailed for Exit Points

In principle Viridian does not see the rational for moving away from the Status Quo Option Ex1 and as such cannot support any such proposed move. Option Ex1 has worked well for many years and Viridian, like very many gas system users, believes this option has given the appropriate signals for investment to Transco. If in spite of this Ofgem still deem some greater comfort is needed concerning capacity bookings then it has been suggested previously that some variation of a NEXA could be considered.

The idea of having a separate flexibility product is argued to be unnecessary. Viridian does not believe there is any DN asking for such a product and thus any argument suggesting DNs are being discriminated against is unfounded. It could justifiably argued that in fact DCs are being discriminated against under the current rules as they, unlike DNs, are forced to book 24 times their MHQ as their MDQ (If DNs were forced to do this Transco have already stated that they believe that the system could not cope). However DCs are not claiming discrimination. Thus as neither DCs or DNs are claiming discrimination and as neither wish to have stated publicly support for a separate capacity and flexibility product there appears no basis or rational for any proposed alternatives to Status Quo.

If Ofgem are concerned about DCs over utilizing system flexibility they could if they wished separately impose an upper limit on usage variations on DCs without having to go down the road of devising a completely new regime incorporating overrun penalties.

Option Ex2 and Option Ex4 are not workable from the perspective of shippers downstream of Moffat to Ireland, Northern Ireland and Isle of Man. Options Ex3 and Ex3A are variations of the Ex2 Option and pose similar problems although not the same. These options too are thought unworkable downstream of Moffat.

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Should the Ofgem have any queries in relation to the issues raised in this paper Viridian would be happy to answer any queries or meet to explain its thoughts.

Yours sincerely,

*Derek Russell*

Derek Russell

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