

# Andrew Pearce

Regulatory Advisor  
UK Gas and Power

BP Gas Marketing Ltd  
20 Canada Square  
Canary Wharf  
London  
E14 5NJ  
United Kingdom

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Sonia Brown  
Director, Wholesale Markets  
Ofgem  
9 Millbank  
London  
SW1P 3GP

Reference

Direct: +44 (0)20 7948 4027  
Main: +44 (0)20 7948 4000  
Mobile: +44 (0)7900 654136  
Fax: +44(0)2079487844  
Main: +44 (0)20 7948 5000  
Andrew.Pearce2@bp.com

Dear Sonia

## **3<sup>rd</sup> Party Proposal: Publication of Near Real Time Data at UK Sub-Terminals (UNC Modification Proposal 006) – Ofgem Impact Assessment – 3 February 2006**

Thank you for the opportunity to comment on the above Impact Assessment (IA). BP's comments are made in addition to those provided in response to the earlier Draft Modification Report and the previous IA, as well as the response of UKOOA to this particular consultation which BP supports.

BP is fully supportive of the principle of market transparency and has participated actively in work to improve information disclosure relating to gas production and its delivery into the National Transmission System (NTS). However, BP does not support the disclosure of information which is commercially sensitive to individual companies – a sentiment with which Ofgem fully agreed in its discussions with UKOOA and the DTI in 2003/4.

We note that Ofgem is minded to implement Modification 006. However we believe that this Proposal raises a number of significant concerns which question the merits of implementation, and at this time it is our view there is not a compelling case for implementation. We believe that the following significant concerns remain:

### **Security of supply risk**

BP Gas Marketing Ltd  
Registered in England and Wales No. 902982  
Registered Office:  
Chertsey road  
Sunbury on Thames  
Middlesex  
TW16 7BP

We believe that implementation of this proposal would lead to the further erosion of confidence of the UKCS as a stable environment in which to invest if yet another regulatory/fiscal change is imposed. The UKCS needs to sustain capital investment of £4-5 billion pa in order to slow basin decline from a "do nothing" 15-20% per annum to a more modest 5-10% per annum. There are many places around the globe competing for that investment capital. A hiatus in investment now, caused by yet more regulatory volatility will result in irreversible loss of much of the remaining reserve potential in the basin. Once existing offshore infrastructure has reached the end of its physical or economic life, it will not be possible to go back to develop the small pools of incremental reserves than can only be developed through tie-back to existing infrastructure.

We also believe that producers considering landing gas in the UK would see potentially detrimental information disclosure requirements, such as those proposed in 006, as a disincentive to supply into the UK.

### **Producer risk**

Ofgem says it recognises that there will be cases in which the commercial position of producers and storage operators will be exposed, paragraph 2.60. However Ofgem also says that it has not carried out any further detailed assessment of the issue. We therefore believe that the proposal does not adequately address the real concerns of the producers, nor does it provide a solution as to how their interests will be protected.

As stated previously by BP in our above referenced submissions we believe that the disclosure of near real time sub terminal information could expose upstream producers to substantial risk in the event of an offshore outage. We do not think that the effects on gas producers or storage operators of publishing this information have been fully recognised.

### **Inconsistency with 2003/4 Discussions and Voluntary Arrangement**

Implementation of this proposal would be inconsistent with agreements reached at the DTI chaired three Phase Information Disclosure Discussions in 2003/04, and could as a result undermine the confidence of the upstream participants. Ofgem were party to and agreed with the voluntary arrangement, agreed between the DTI, National Grid, UKOOA members and Ofgem.

The progress achieved via this 2003/4 voluntary arrangement has been widely recognised.

The Energy Minister referred to the voluntary arrangement in his evidence to the Trade and Industry Select Committee on the 31 October 2005, saying that he thought that a voluntary approach was the right one. The Minister also stated that "we need to get through the winter and in a year's time or so we will be in a better position to judge it" (*the voluntary arrangement*).

At the same session the Minister was asked if he thought that the supply of information to NGT has resulted in the improved transparency which the Government expected. The Minister replied "Yes, we think it has and feel that a voluntary system is the one we should pursue here. Obviously we will monitor it with Ofgem and the industry itself, but we think a voluntary approach is the right one."

Furthermore in a letter to The Independent newspaper on the 8<sup>th</sup> March 2006, Alistair Buchanan stated "we welcomed the breakthrough before last winter when the UK offshore industry agreed to make available more information".

BP believes that the success of the voluntary arrangements could be undermined by Ofgem were they to implement Modification Proposal 006 at this time.

This arrangement has been fully in place for less than a year so to conclude that it is not yielding the results desired seems premature.

BP therefore encourages Ofgem to analyse information from at least one full year's operation of the voluntary arrangements before making a decision on whether the position has improved in order to provide consistency with the Minister's comments. Indeed analysing at least a full years worth of data and the benefits that that may have brought to the market would seem the most efficient way forward.

Ofgem acknowledged in its letter of the 23<sup>rd</sup> October 2003 that information disclosed to the market should be at a level of aggregation which does not disclose an individual participant's commercial position. Ofgem also says in this letter that it intends to formally seek the views of the DTI, in its role as upstream licensing regulator, with respect to any Modification Proposal relating to the disclosure of potentially confidential offshore information by Transco (now National Grid Gas) to the industry, prior to reaching any decision. Although Ofgem have already stated that they are minded to implement the modification, BP trusts that Ofgem is still intending to consult with the DTI before making a final decision.

### **Impact Assessment**

With respect to specific areas of the Impact Assessment we comment as follows.

In paragraph 2.5 of the IA, Ofgem considers that the information (under the voluntary arrangement) has been available to the market for a sufficient amount of time to allow an assessment of its usefulness to be undertaken, especially given that it was available during a particularly difficult winter. As mentioned above, we believe insufficient time has been allowed to enable a robust analysis to be undertaken.

We note that in paragraph 2.60 Ofgem fully accepts that publication of real-time sub-terminal data will expose the position of certain parties as a result of offshore outages. According to Ofgem's 2005 Guidance on information disclosure, real time potentially company specific data would be considered as commercially sensitive. However, Ofgem's IA concludes that any risk to producers is overstated in light of the tools available to manage the risk.

Ofgem suggests in paragraph 2.55 that producers could choose to hold back some production in reserve and sell this into the spot market when contracted fields are operating normally or to make up any shortfall if a field fails. It is BP's view that adopting such an approach would not be conducive to security of supply. Indeed, we feel that this is in direct opposition to how Ofgem sees that the market should operate. As an alternative, Ofgem suggests that a company can establish contractual arrangements to mitigate its potential exposure. Ofgem's IA does not consider the costs of making any such arrangements. We believe in order to provide a balanced assessment such assessment of costs incurred in making contractual arrangements should be included.

In the May IA Ofgem recognise that there will be additional cost in relation to contract re-negotiation. In the current IA Ofgem state that they have not carried out further detailed assessment of this issue, yet is now suggesting that no contract re-negotiation would be necessary. We remain of the opinion that there is a lack of analysis on the potential implications to producers and the costs that would be incurred were this proposal to be implemented.

### **Summary**

In summary if Ofgem implemented this Modification it would:

1. be contrary to the views expressed by Ofgem in 2003/4 and the voluntary arrangements agreed with the DTI and UKOOA members at that time; and
2. fail to take into account all of the data being made available under the voluntary arrangements.

3. encourage producers to sell less gas at M-1 and more at D-1 to mitigate the risks associated with this Proposal. This would create opportunities for traders and Shippers, but increase costs to commercial and residential consumers.

Moreover, we believe that implementation of the Modification Proposal could jeopardise security of supply.

We believe that the claimed benefits are questionable and do not believe that Ofgem presents a sound case to substantiate them, and as such it would be inappropriate for this Proposal to be implemented

As mentioned above, BP remains fully committed to the provision of information to ensure that National Grid Gas can operate the NTS in a safe and secure manner. However, BP is of the view that this can be achieved without the disclosure of information at a level of detail that is clearly prejudicial to individual companies.

Our response is not confidential and may therefore be placed in your library and on your website. Please do not hesitate to contact me should you wish to discuss the contents of this letter further.

Yours sincerely

Andrew Pearce  
Regulatory Advisor  
BP UK Gas & Power

Cc: Claire Durkin, DTI