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21 April 2006

Dear Ms Egan,

### **Response to Second Consultation**

Thank you very much for your response, of 30 January 2006, to our Second Consultation. We have provided a high level view on the responses received to our Second Consultation in Appendix 5 of our Third Consultation (published on 30 March 2006). However, given the nature of some of the issues that you raised in your response, we believe that it is appropriate to address these specific concerns in an open letter.

We therefore address each of the points raised by your response in turn below.

#### *Recognition of parties at the Moffat CSEP as NTS users*

You stated your concern that the Second Consultation identified the users of the NTS transmission system to be "the electricity and gas distribution companies and a small number of very large consumers who are connected directly to the transmission systems".

We acknowledge that users of the gas transmission network include the gas distribution networks, very large customers that are directly connected to the NTS (such as power stations), storage sites and connected system exit points (CSEPs) including interconnectors. The omission from the Second Consultation was an oversight.

#### *TPCR objectives*

##### Proposed new objective

You suggested that an additional objective should be added to the ten already proposed as follows: "Efficient Interoperation at Connected System Exit Points (CSEPs): It is important that the trading of gas from the NTS to other systems including Interconnectors be supported. The arrangements should facilitate the operation of processes required for such interoperation."

We note your point regarding interoperation at the Moffat CSEP. We agree that it is desirable that there is efficient interoperation at CSEPs, but it is our view that efficient interoperation is already addressed by the objective "efficient network development and system operation". As such, we do not propose to add the new objective which you proposed.

## Extension of existing objectives

With regard to the existing TPCR objectives, you provided the following comments:

- ◆ *Prevention of undue discrimination*: that the Moffat CSEP is more complex than a standard exit point with multiple shipper status and three downstream jurisdictions. You asked Ofgem to apply due discrimination to the development of arrangements at Moffat and to recognise this in the "prevention of undue discrimination" objective.
- ◆ *Promotion of competition*: that the proposed NTS exit reforms could adversely impact upon competition downstream of Moffat and that the promotion of competition objective should be extended to include the promotion of competition in the three jurisdictions downstream of Moffat.
- ◆ *Preservation of security of supply*: that this objective is expanded to recognise that "security of supply at Moffat is of major importance to the three jurisdictions supplied downstream of Moffat given the level of dependency on gas supplies from that source".
- ◆ *Minimise implementation costs*: that this objective is modified to provide that the exit arrangements should not impose "disproportionately high implementation or administration costs" on downstream jurisdictions and that Moffat be considered in any Impact Assessment exercise.

We note your concerns regarding the TPCR objectives, as defined, but would make the following comments:

- ◆ *Prevention of undue discrimination*: The objective relates to the prevention of (or limiting the scope for) undue discrimination and, insofar as it relates to the arrangements at Moffat, reflects existing NGG NTS statutory and licence obligations. It does not rule out due discrimination where this is appropriate. Any assessment of how a user or category of users should be treated should, in the first instance, be made by NGG NTS. We do not, therefore, think it would be appropriate to amend the objective in the manner proposed.
- ◆ *Promotion of competition*: We do not consider extension of this objective to include jurisdictions downstream of Moffat to be appropriate. Not only is the Authority under no duty to promote such competition, it would also, in our view, be inappropriate for the Authority to seek to do so. However, please see the comments made under the heading of "General comments" below.
- ◆ *Preservation of security of supply*: We do not consider extension of this objective to include jurisdictions downstream of Moffat to be appropriate. Not only is the Authority under no duty to ensure such security of supply, it would not, in our view, be appropriate for the Authority to seek to do so. That said, to the extent that there may be an impact on security of supply in a connected jurisdiction, this is something to which the Authority will give appropriate consideration. Please also see the comments made under the heading of "General comments" below.

With regard to the specific concerns expressed in relation to security of supply, we note that one of the key aims of the proposed enduring offtake reform is to provide the necessary clarity to NTS users regarding the commitments required to guarantee capacity in the long term. In addition, the expectation is that the information provided to NGG NTS by such commitments would provide NGG NTS with certainty with regards to its future investment requirements.

- ◆ *Minimisation of costs*: We do not consider that extension of this objective to include jurisdictions downstream of Moffat would be appropriate. Not only is the Authority

under no duty to take account of such costs, it would not, in our view, be appropriate for the Authority to seek to do so. The Authority's principal objective and general duties under the Gas Act concern the gas industry in Great Britain and gas consumers within Great Britain. However, please see the comments made under "*General comments*" below.

#### *General comments*

Notwithstanding the comments made above, we have met on a number of occasions with the Irish Commission for Energy Regulation (CER), BGE and Ofreg to discuss the above-mentioned and other issues. We are keen to maintain the valuable dialogue we have already established with the CER and other interested parties with a view to seeking to address the concerns of the jurisdictions downstream of Moffat to the extent appropriate and consistent with the Authority's principal objective and general and other duties. We have found these meetings cooperative and productive and anticipate that we can continue to make progress in this regard.

#### *Particular concerns and initial view on Options in Second Consultation*

We note that your response also raised specific concerns in relation to the impact of enduring offtake reform on arrangements at the Moffat CSEP and to parties downstream of Moffat. Those points were considered in developing the proposals which are reflected in the Third Consultation. As stated above, we hope that continuation of the meetings with the CER, BGE and Ofreg will help us to continue to understand specific concerns with a view to developing a solution that can address such concerns.

Should you have any further comments, we would be grateful if you could include these as part of your response to the Third Consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robert Hull', written in a cursive style.

Robert Hull  
**Director, Transmission**