

**Viridian Energy  
Limited**

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28<sup>th</sup> April 2006

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

**Ref: Response to “Transmission Price Control Review 2007 – 2012: Third Consultation”  
dated 30<sup>th</sup> March 2006.**

Dear Mr. Hull,

Viridian, as an active shipper in the Irish gas system, is directly affected by any change to the existing NTS rules particularly to the extent that they affect treatment of the Moffat Exit Point. We thus make comments on the referenced document and ask that they be given careful consideration.

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**General Comments**

- (A)** This consultation paper, unlike previous papers on the same topic, contains no details in relation to if there will be a Flexibility Capacity Product, and if so if it will be bundled or unbundled product from the Capacity Product discussed in the paper. Without such important detail it is impossible for any party to make any real and thorough assessment of the potential true impact of anything being suggested in this consultation paper or as part of the overall Exit Reform in general. As such Viridian strongly believes this paper should not have been consulted upon without such missing details concerning flexibility.
- (B)** Due to General Comment (A) above Viridian reserves the right to amend, change or refine any of the comments made by it in this response to the referenced consultation paper.
- (C)** As per Viridians comments on the 2<sup>nd</sup> Consultation Paper in January (ref. Specific Comment on section 7.7) Viridian is still does not see the rational for moving away from the Status Quo Option Ex1 and a bundled flat and flex product, and as such still cannot support any such proposed move. Viridian believes the Status Quo has worked well for many years but if in spite of this, Ofgem still deem some greater comfort is required concerning investment signals to NGG then as suggested previously (by many parties including Viridian) a variation of the ARCA could be considered. Alternatively it is suggested that a variation of the latest ideas from the EOWG discussions involving rolling rights and longer term commitments could be considered if and only if:
- a. the commitment timings are realistic and reasonable – the timing of 7 years commitment as an undertaking to pay charges (which are unknown in advance) is considered unreasonably excessive for many parties (due to financial liability limits), will act as a barrier to entry for new competitors, and will force gas Suppliers to contract with End Users for longer term contracts thus reducing the ability of the customer to move and thereby reducing customer movements

- b. there is some degree of flexibility in the application of the product i.e. the commitments in advance can be for various amounts for different years and do not have to be exactly the same booking for each of the years
- c. flexibility is not sold/booked as a separate product to capacity or treated in any way differently to the manner in which it is treated today i.e. inextricably linked with the capacity booking.

Viridian still strongly argues that the idea of having a separate flexibility product is unnecessary, difficult to understand (especially how one can ever assume that in some way a piece of pipe, which has both capacity and flexibility inherent in it, can in some way be deemed to be required or installed (or used) for solely “capacity” or solely “flexibility” reasons), costly to implement and operate, and excessively complex to administer or operate for both NGG and/or Shippers.

If Ofgem are concerned about DCs (or any other party) excessively over utilizing NTS system flexibility they could if they wished separately impose an upper limit on usage variations on such parties (or separate limits on separate categories of users) without having to go down the road of devising a completely new regime incorporating separate capacity and flexibility overrun penalties.

- (D)** Moffat is not a “standard” NTS Exit Point. It is different from all other NTS Exit Points. It is the NTS Exit Point from the NTS which only delivers gas to, and does not take gas from, three jurisdictions including a separate member of the EU. It is also the only Exit Point around which there are inter governmental treaties – such treaties would not have been needed if Moffat was a “standard” Exit Point. Due to the unique nature of Moffat it is argued Ofgem should give it exceptional status in order to address vast array of issues which are inherent in such a complex, multi-user, multi-jurisdictions, multi-regime point. In truth Moffat is an inter-market connection point between several markets within the EU and should be uniquely treated due to this.
- (E)** One of the general aims and focus of the EU is the “integration” of gas markets. As such it is assumed that the 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 the status quo option is likely to be contrary to the general thrust and intent of EU regulation concerning the harmonization of gas markets.
- (F)** Ofgem's attention is again drawn to the specific comments Viridian made in response to the Second Consultation concerning compliance with applicable legal requirements and the consideration in regard to this objective of compliance with EU regulations and Directives (in particular Regulation EU/1775) where Viridian suggested that if Ofgem were to decide to proceed to implement any option other than the Status Quo option (or something very close to it), there may be conflicts with this EU Regulation. Viridian raised specific areas of concern which are still valid concerns and included;
  - a. **Article 3, Section 1** - “*cross subsidies between network users*”.
  - b. **Article 3, Section 2** - “*market liquidity*” should not be restricted, nor “*trade across borders of different transmission systems*” should not be distorted or hampered..
  - c. **Article 5 Section 2** - “*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*”.
  - d. **Article 9 Section 3** - “*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.*”.
- (G)** Viridian believes that under the general objectives of the EU Ofgem should and must carefully consider the effects of any change to the exit reform in GB on the preservation of security of gas supply and the promotion of competition in the jurisdictions downstream of Moffat (Ireland, Northern Ireland and Isle of Man).

**(H)** A fundamental aim of any regime must be to be easily understandable, administer, easy to operate in practice, and efficient with no undue inefficiencies. Without the full details concerning the application of the flexibility issue it is difficult to comment completely here but it still appears that the regime being proposed will be substantially more complex than the existing regime, and considerably more costly to use and administer. All this to try to redistribute approximately £5 million in operations costs each year appears to be financially inefficient in the extreme and not system user friendly in nature. Serious consideration of a thorough costs Vs benefits analysis must be undertaken as on the face of it it appears the costs and hardships imposed by the proposed regime will significantly outweigh the benefits (in particular in relation to the usage of an unbundled flexibility product).

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### **Specific Comments:**

**(1) Section 1.3:** The idea of investment lead times of 3 years appears reasonable and thus Viridian supports Ofgem's stance on this timing. However at the EOWG meetings later proposals from NGG appear to suggest they are now looking at investment leads times of 4 years. This is thought highly excessive and Viridian would not support any move away from the 3 years and see no justifiable logic for such, or any data which categorically proves the 4 years are necessarily.

**(2) Section 1.43:** Viridian does not object to the notion of users giving longer than 12 months ahead forecasts of predicted capacity requirements but one has to be extremely careful about the application of financial commitments concerning these capacity predictions as for most users "predictions" is all they can do. If such commitments are too great they (i) will undoubtedly financially "burden" a company and affect their ability to do business and grow (ii) will create barriers to entry for new entrants as the monies needed to enter the market will increase dramatically (iii) will cause a change of behaviour in terms of Shipper/Suppliers contracting with Customers which will have the likely effect of locking in customers for longer and thus restricting customer movements between suppliers thus killing competition (iv) limit the risk parties are willing to take in their contracting terms and conditions (as the risk they are already taking on the capacity front is already significant) thus restricting the scope of services Suppliers will be able to offer to clients.

A huge issue with excessively long commitment periods (which 7 years is) and the financial commitments related thereto, is when one looks at retail gas suppliers to domestics, small and large I&Cs. These Shippers/Suppliers do not know with any degree of certainty what customer base they will have further than 12 months ahead (and even the certainty they have within 12 months is not 100% as customers can opt to move at any time) and as such will find dealing with this "firm" financial commitment on the basis of a "non-firm" customer base difficult (likely impossible) to cope with.

Ofgem are hereby asked to consider in greater detail how to facilitate a mechanism to cope with this issue.

**(3) Section 1.45:** Ofgem suggest that "a user commitment model may reduce the risk of stranded assets". One can only assume such a suggestion is based on the notion that because there is a financial commitment attached to the longer term capacity booking that the signals given will somehow be of a better quality. However the flaw in this notion is that the regime as a whole the way it is being structured will force parties who wish to be sure of getting access to the capacity they need/may need to book very prudently. This will have the effect of increasing the capacity booking on the system but as the actual normal usage for most players will be some percentage of the total booked there will be stranded capacity in the system albeit not booked and paid for by a party but all the same stranded and not being utilized. This is not thought to be the most efficient manner in which to use the system. The restriction suggested by NGG that they only offer Day ahead firm capacity and interruptible but no longer allowing for longer interruptible capacity

bookings is worsening the potential for this issue to arise. Ofgem are asked to reconsider their apparent stance of removing long term interruptible capacity from the product offering from NGG as it is argued this product would go greatly towards more fully utilizing the systems to the maximum extent possible

**(4) Section 1.45:** Further to the point (2) raised above Viridian believes that the notion that Ofgem considers “that NTS users are better placed to assess their individual future needs for NTS offtake capacity services than any other party” is fundamentally flawed when one looks at retail gas suppliers. Retail gas suppliers are only sure of their capacity requirements on a near time basis as they do not know with any degree of certainty what customers will leave or join them in the future. Hence if asked to “predict” future requirements such Suppliers as at best guessing their needs and being prudent will always “plan for growth” (due to the old adage “if you are not growing you are shrinking”). Even if such suppliers did not “plan for growth” their assessments are still only a guess. Thus feedback from such suppliers in relation to their future capacity needs is likely to be very inaccurate due to the uncertainty around customer movements. However NGG who can see the total retail gas market usage and can track trends in growth of same over time, regardless of who supplies the customers, are argued to be the entity best placed to make a true assessment of retail gas customer requirements for NTS capacity. This is argued to give a much more accurate representation of the true capacity requirements of the retail gas customers and thus avoid over or under investment, and stranded assets.

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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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