



Shippers, relevant gas transporters and other interested parties

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30 August 2006

Dear Colleague,

Decision on an application by WINGAS Storage UK Limited for an exemption under section 19A(6)(a) of the Gas Act 1986 from section 19B of the Gas Act 1986 for the proposed Saltfleetby gas storage facility

This letter provides details of the Ofgem decision in relation to the application by WINGAS Storage UK Limited ("WSUK") for an exemption under section 19A(6)(a) of the Gas Act 1986 (the "Gas Act") from the negotiated third party access ("TPA") requirements contained in section 19B of the Gas Act. The application relates to the proposed Saltfleetby gas storage facility in Lincolnshire.

Saltfleetby gas storage facility

WSUK, a joint venture between WINGAS GmbH, Kassel (Germany) ("WINGAS")¹ and ZMB Gasspeicherholding GmbH, Vienna (Austria) ("ZGHG")² owns the Saltfleetby gas field, an onshore natural gas field at Saltfleetby, Lincolnshire. Gas production from the Saltfleetby gas field is declining and it is the intention of WSUK, subject to obtaining the necessary consents and approvals, to convert Saltfleetby gas field into an underground gas storage facility by 2008.

On 13 June 2006 WSUK applied under section 19A(2) of the Gas Act for an exemption under section 19A(6)(a) of the Gas Act on the grounds that use of the facility by other persons is not necessary for the operation of an economically efficient gas market. WSUK stated in its application that Saltfleetby will be a seasonal storage facility and operations will substantially comprise of one annual cycle of filling and emptying due to the specific geological features of the reservoir. WSUK's current estimate is that the Saltfleetby gas storage facility will have about 715 mcm (7,650 GWh) of operational space with 8 mcm/day (85 GWh/day) of maximum daily withdrawal and 4.2 mcm/day (45 GWh/day) of maximum daily injection.

In its application, WSUK stated that any capacity not offered to or accepted by the shareholders would be marketed by WSUK to any signatories of its standard Storage Services Contract. Also, WSUK indicated that it would put in place Use It or Lose It ("UoLI") rules in relation to unused booked capacity and would sell any additional short term capacity on a firm or interruptible

¹ WINGAS is a joint venture of Wintershall AG, Kassel (Germany) and OAO Gazprom, Moscow (Russia).

² ZGHG is controlled by the Gazprom group of companies.

basis. WSUK has stated that these activities would be carried out in a non-discriminatory manner.

Ofgem's initial view

On 22 June 2006, Ofgem issued a consultation letter in respect of the WSUK application for an exemption from the TPA requirements contained in section 19B of the Gas Act for the proposed Saltfleetby storage facility. Having taken account of the size of the proposed Saltfleetby gas storage facility in relation to the size of the GB market for gas storage, Ofgem's initial view was that the use of the facility by other persons was not necessary for the operation of an economically efficient gas market. Based on the information available to Ofgem,³ the facility's 715 mcm of space would constitute around 12 per cent of the overall market for gas storage and LNG storage space in Great Britain in 2008 and its estimated deliverability of 8 mcm/day would constitute about four per cent of the total deliverability of GB storage facilities in 2008. Therefore Ofgem's initial view was that WSUK should be granted an exemption from the TPA requirements in section 19B of the Gas Act in respect of the whole capacity of the proposed Saltfleetby gas storage facility. Ofgem invited responses on its initial view and on the draft exemption order, to be received by close of business 4 August 2006.

Respondents' views

Ofgem received one response to the consultation. The respondent considered that WSUK should not be granted an exemption for the Saltfleetby gas storage facility in Lincolnshire under section 19A(6)(a) of the Gas Act 1986 from Section 19B of the Gas Act 1986. Their view was that WSUK should be required to offer third party access at Saltfleetby on the basis of its significant size and also because it has different characteristics from all other existing and proposed storage sites. The respondent was also concerned that increasing the number of storage facilities that are exempt from the TPA requirements contained in section 19B of the Gas Act may eventually distort the market. The respondent further believed this would disadvantage new entrants to the market by limiting their access to stored gas.

However the respondent welcomed the development of Saltfleetby gas storage facility, in particular WSUK's proposal to operate UoLI rules and sell any additional short term capacity on a firm or interruptible basis. Therefore the respondent requested that if an exemption order were granted to WSUK from Section 19B of the Gas Act 1986 for the Saltfleetby facility, it should be subject to WSUK's plans to operate UoLI rules in relation to unused booked capacity and to sell any additional short-term capacity on a firm or interruptible basis.

The respondent requested that their response remain confidential.

Ofgem's final view

Having considered the views in response to the consultation, Ofgem remains of the view that use of the Saltfleetby facility by other persons is not necessary for the operation of an economically efficient gas market given the size of the proposed facility in relation to the size of the GB market for gas storage.

The Authority has therefore given WSUK an exemption in respect of the entire capacity of the proposed Saltfleetby gas storage facility under section 19A(6)(a) of the Gas Act from the TPA

³ Please see Appendix 1 to this document for a summary of existing and potential storage facilities and their TPA status.

requirements contained in section 19B of the Gas Act. This exemption order is set out in Appendix 2 of this document.

Based on the information provided by WSUK regarding the operative mode of the facility and information provided to Ofgem by other parties, Ofgem does not agree with the respondent's view that the size and characteristics of the Saltfleetby storage facility distinguish it from other existing and proposed storage facilities sufficiently for it to be subject to different access rules to similar sized facilities. Therefore Ofgem is not convinced that either the size or the characteristics of the proposed Saltfleetby facility give rise to concerns on the basis of which an exemption from Section 19B of the Gas Act 1986 should not be granted.

Regarding the way in which WSUK is planning to operate the facility, Ofgem shares the respondent's enthusiasm for the applicant's plans to operate UIoLI arrangements and believes that these arrangements will assist in providing the market with appropriate access to any spare capacity that may be available at Saltfleetby storage facility.

As part of its ongoing market surveillance activities, however, Ofgem will continue to take into account the effect of exemptions on the market. This exemption may be amended (with the facility owner's consent) or revoked, for example, if the Authority considers that the use of the facility has become necessary for the operation of an economically efficient gas market. In the event that any of the circumstances occur which may give rise to the need to revoke or amend an exemption and in the absence of a need to act urgently, Ofgem would most likely consult interested parties before any amendment is made.

Finally, and for the avoidance of doubt, any views expressed, or decisions made, in respect of the granting of exemptions from section 19B are expressed or made solely in relation to the relevant criteria for the giving of exemptions set out in section 19A. Any decision that Ofgem may make, or view that Ofgem may express, in relation to this application for an exemption does not preclude or impact in any way on the operation of the Competition Act 1998 or the Enterprise Act 2002. As the analysis contained in this document is in relation to a specific situation, the analysis may or may not necessarily be relevant to consideration of any related issues that may arise, for example under the Gas Act, the Competition Act 1998 or the Enterprise Act 2002.

The way forward

The attached exemption order, attached as Appendix 2, will be in effect from 30 August 2006. If you wish to discuss any matters in this document, please contact Ben Woodside on 020 7901 7471.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S Brown', followed by a period.

Sonia Brown
Director, Wholesale Markets

Appendix 1: Summary of existing and publicly known proposed storage facilities⁴

Projected Start date	Storage facility	Owner	TPA status	Space (GWh)	Deliverability (GWh/d)	Injectability (GWh/d)
<i>Existing gas storage facilities</i>						
N/A	Rough	Centrica Storage Limited	Required to provide Gas Act TPA. Also provided undertakings	33200	455	160
N/A	Hatfield Moor	Scottish Power	Exempt	1260	25	25
N/A	Hornsea	Scottish and Southern Energy (SSE)	Required to provide Gas Act TPA	3495	195	21.6
N/A	Hole House	Energy Merchants Gas Storage (UK) Limited	Exempt	300	30	60
N/A	Humbly Grove	Star Energy	Exempt	3146	79	90
<i>Existing LNG storage facilities</i>						
N/A	Avonmouth	Transco LNG	Exempt	876	156	2.3
N/A	Partington	Transco LNG	Exempt	1121	219	2.4
N/A	Dynevor Arms	Transco LNG	Exempt	304	49	2.6
N/A	Glenmavis	Transco LNG	Exempt	505	101	1.6
<i>Planned storage facilities</i>						
2006	Holford H165	INEOS Enterprises	Exempt	50	75	75
First cavity Q3 2006 Second cavity Q3 2008	Hole House (increased capacity)	Energy Merchants Gas Storage (UK) Limited	Exempt	300	60	60
Mid 2007	Caythorpe	Warwick Energy	Exempt	3000	120	90
2007	Welton	Star Energy	Not applied	4720	89	Information not available
2007/08	Aldbrough	SSE/Statoil	Applied for exemption	4427	421	211
2007/08	Byley	E.ON	Exempt	1758	175	88
2008	Saltfleetby	WSUK	Applied for exemption	7650	85	45

⁴ The data in this appendix has been provided to Ofgem directly by the relevant storage facility owners.

Appendix 2: Exemption order

GAS ACT 1986 SECTION 19A EXEMPTION

Pursuant to sub-section 19A(6)(a) of the Gas Act 1986 (the Act), the Gas and Electricity Markets Authority hereby gives to WINGAS Storage UK Limited⁵, as a person who expects to be an owner of a storage facility, an exemption from the application of section 19B of the Act in respect of the storage facility located at Saltfleetby in Lincolnshire, subject to the attached Schedule.



Sonia Brown

Authorised in that behalf by the
Gas and Electricity Markets Authority
Dated: 30 August 2006

⁵ Registered in England No. 00953066. Registered Office: Building 3 Chiswick Business Park, 566 Chiswick High Road, London W4 5YA.

SCHEDULE

PERIOD, CONDITIONS, AND REVOCATION OF EXEMPTION

A. Interpretation and Definitions

In this exemption:

"the Authority"	means the Gas and Electricity Markets Authority established by section 1(1) of the Utilities Act 2000, as amended from time to time
"the Act"	means the Gas Act 1986, as amended from time to time
"the facility"	means the Saltfleetby gas storage facility
"facility owner"	means WINGAS Storage UK Limited in its capacity as owner of the storage facility
"facility operator"	means WINGAS Storage UK Limited in its capacity as operator of the storage facility

B. Full description of the storage facility to which this exemption relates

The capacity of the facility, being up to 7,650 GWh.

C. Period

Subject to section E below, and pursuant to section 19A(3)(a) of the Act, this exemption shall come into effect on the date that it is issued and will continue until it is revoked in accordance with Section E.

D. Conditions

Pursuant to sub-section 19A(3)(b) of the Act, this exemption is made subject to the following conditions:

1. That the material provided by the facility owner to the Authority in respect of this exemption is accurate in all material respects.

2. The facility owner furnishes the Authority in such manner and at such times as the Authority may reasonably require, with such information as the Authority may reasonably require, or as may be necessary, for the purpose of:
- (a) performing the functions assigned to it by or under the Act, the Utilities Act 2000, or the Energy Act 2004, each as amended from time to time; or
 - (b) monitoring the operation of this exemption.
3. The facility owner complies with any direction given by the Authority (after the Authority has consulted the relevant gas transporter and, where relevant, the Health and Safety Executive) to supply to the relevant gas transporter such information as may be specified or described in the direction -
- (a) at such times, in such form and such manner; and
 - (b) in respect of such periods,

as may be so specified or described.

Where the facility owner is prevented from complying with such a direction by a matter beyond its control, it shall not be treated as having contravened the condition specified in this paragraph.

In this condition:

"information"	means information relating to the operation of the pipe-line system which is operated by a relevant gas transporter
"relevant gas transporter"	means any holder of a gas transporter licence under section 7 of the Act owning a transportation system within Great Britain to which the facility is connected or with whom the facility operator interfaces with as a system operator

4. Should any of the grounds for revocation arise under section E of this exemption, the Authority may, with the consent of the facility owner, amend this exemption rather than revoke the exemption.
5. The Authority may, with the consent of the facility owner, amend this exemption.
6. This exemption is transferable to another facility owner where the Authority has given its written consent to such a transfer. For the avoidance of doubt, all of the conditions contained in this exemption order continue unaffected in respect of any facility owner to whom this exemption order may be transferred.

E. Revocation

Pursuant to sub-section 19A(4) of the Act, this exemption may be revoked in the following circumstances:

1. This exemption may be revoked by the Authority by giving a notice of revocation to the facility owner not less than four months before the coming into force of the revocation in any of the following circumstances
 - (a) where:
 - (i) the Authority considers that the use of the facility is necessary for the operation of an economically efficient gas market;
 - (ii) the facility owner has a receiver (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency Act 1986, as amended from time to time) of the whole or any material part of its assets or undertaking appointed;
 - (iii) the facility owner has an administration order under section 8 of the Insolvency Act 1986, as amended from time to time, made in relation to it;
 - (iv) the facility owner is found to be in breach of any national or European competition laws, such breach relating to the facility; or
 - (b) the facility owner has failed to comply with a request for information issued by the Authority under paragraph D2 above and the Authority has written to the facility owner

stating that the request has not been complied with and giving the facility owner notice that if the request for information remains outstanding past the period specified in the notice, the exemption may be revoked; or

- (c) the facility owner has failed to comply with a direction issued by the Authority under paragraph D3 above and the Authority has written to the facility owner stating that the direction has not been complied with and giving the facility owner notice that if the direction remains outstanding past the period specified in the notice, the exemption may be revoked.

2. This exemption may be revoked by the Authority with the consent of the facility owner.