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Date : 14 June 2007

Dear Philip,

Re: Statoil UK Ltd's application for an exemption from Section 19B of the Gas Act 1986

Scottish and Southern Energy plc (SSE) welcomes the opportunity to comment on Ofgem's "minded to" statement regarding Statoil UK Ltd's (STUK) application for exemption from Third Party Access (TPA) provisions, as set out in the 1986 Gas Act.

We concur with Ofgem's initial view that STUK should be granted an exemption for its share of the Aldbrough storage facility. It is clear from Ofgem's market share analysis that STUK's position in the daily flexibility market is sufficiently low not to present a competitive concern. This view is strengthened by Ofgem's decision to adopt a conservative approach to its analysis.

On this point, we have a number of concerns about Ofgem's approach to defining the relevant market. In particular, we believe Ofgem has restricted the flexible market counter to signals elsewhere in the market. At the very least, Ofgem should consider that the new infrastructure in place with the Netherlands and Norway will offer a degree of flexibility going forward. In addition, we believe Ofgem should acknowledge the flexibility that LNG imports can and will offer and the flexibility that has already been shown to be available on the demand side. By excluding all of these from its current analysis, we believe Ofgem's interpretation of the flexible market and therefore its analysis will not capture the full extent of competition.

I hope both this and the attached response to the questions are useful. Should you require any clarity or further information, please do not hesitate to get in touch.

Yours sincerely,

Rob McDonald
Director of Regulation.

1. Do you consider our market definition is appropriate?

By excluding potential sources of flexibility, namely the Dutch-UK interconnector (BBL), Norwegian imports (through Langeled and Vesterled), LNG importation terminals and demand-side response from its definition of relevant market, we believe Ofgem's analysis presents a very conservative approach. Going forward, the level of flexibility offered by these sources will increase and should therefore be reflected in Ofgem's analysis in order to present a fair representation of the market.

2. In particular, do you consider the flexible gas market remains the appropriate market definitions for considering the effect on competition of the development of a new medium range storage facility?

We believe the flexible gas market is an appropriate market definition, but it must be a realistic view and interpretation that takes account of these additional sources of flexibility otherwise the analysis will fail to capture the full extent of competition.

3. What is your experience of the functioning of Third Party Access (TPA) regulation in the GB market?

We believe Third Party Access regulation is working well.

4. Should ownership of TPA facilities be included in the market share used in this assessment? Please provide detailed arguments.

Given that the intent of Ofgem's market share analysis is to determine whether STUK's market position could be considered sufficient to have significant competitive effect, we concur with Ofgem that any owned facilities subject to TPA regulations should be separately assessed. As noted above, we believe TPA is working. Facilities subject to TPA are required to provide "*fair and competitive access to capacity to all market participants*". Combining TPA and exempt facilities in Ofgem's competitive analysis would therefore result in competitive positions being misrepresented.

Moreover, there is a concern that the inclusion of regulated TPA facilities in any future TPA exemption requests could unnecessarily discourage players that are already active in the storage market from investing further in storage. This is quite clearly contrary to signals elsewhere and should be avoided.

5. Do you agree with our overall assessment that the proposed exemption should be granted?

We believe STUK has presented a strong case for TPA exemption and we have considerable comfort that the market in which Aldbrough will operate will be sufficiently competitive not to require the imposition of TPA regulations. Also, we understand that any deviation from the terms set out under the exemption can trigger a review of STUK's exemption. We therefore agree with Ofgem that STUK should be granted an exemption as proposed.