

Inveralmond House
200 Dunkeld Road
Perth
PH1 3AQ

Philip Davies
GB Markets
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

Telephone: 01738 456400
Facsimile: 01738 456415

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Dear Philip,

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

Thank you for the opportunity to comment on Ofgem's initial thoughts with respect to our exemption request.

We clearly welcome Ofgem's "minded to" statement regarding SSEHL's application for exemption from Third Party Access (TPA) provisions, as set out in the 1986 Gas Act. Given that the questions posed by Ofgem in its consultation closely mirror those asked in conjunction with Statoil UK Ltd's (STUK) equivalent exemption application, many of the same views apply again here and have been largely repeated. However, we would like to reinforce the following key points.

Whilst we concur with Ofgem's "minded to" statement, we have a number of concerns regarding Ofgem's approach to defining the relevant market. In particular, we believe Ofgem has understated the size of the relevant flexible market. For example, in our view, 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 flexibility that LNG imports can 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 will not capture the full extent of competition.

On a separate point, we believe SSEHL's application presented a strong case for TPA exemption applications to be separately assessed from already owned sources of market flexibility and we welcome the fact that this has been recognised in Ofgem's analysis.

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 more "central case" 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, providing the view taken and interpretation of the term "flexible" is realistic. We believe it should take account of the additional sources of flexibility outlined in our response to Q1, 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.

No. Given that the intent of Ofgem's market share analysis is to determine whether SSEHL'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. Is it appropriate to exclude Hornsea from SSEHL's share of the market given that Hornsea is subject to nTPA?

Yes, for the reasons stated in our response to Q4. Hornsea is subject to regulated TPA and is therefore required to provide "*fair and competitive access to capacity to all market participants*".

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

Yes. Both SSEHL and Ofgem have concluded that SSEHL's share of the Aldbrough storage facility represents a sufficiently low market share not to be required for the economically efficient operation of the GB gas market. Importantly, the anticipated increase in market flexibility over the coming years will only strengthen this position. Should circumstances change, we believe that there are sufficient checks in place to review this exemption. However, based on the current analysis and future forecasts, we believe SSEHL should be granted an exemption as proposed.