



**Legal, Regulation and
Compliance**

Centrica Energy

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Wednesday, 04 June 2008

Steve Smith
Managing Director, Networks
Ofgem
9 Millbank
London SW1P 9GE

[By E-mail: Steve.smith@ofgem.gov.uk](mailto:Steve.smith@ofgem.gov.uk)

Dear Steve,

Re: BBL Gas Interconnector Expansion

Thank you for the opportunity to comment on the open letter detailed above. This non-confidential response is on behalf of the Centrica group of companies excluding Centrica Storage Ltd and may be placed on the Ofgem website and in the Ofgem library.

The consultation centres on whether Ofgem should approve the tariff (details not covered) using the "approval by approval" process (AAP) provided for in the UK Interconnector licence conditions. In this response, we confine our comments to the use of AAP.

1. Centrica recognises that co-operation between regulators is particularly important in the case of interconnectors, and that unnecessary bureaucracy should be avoided. Where possible and appropriate, we would support joint consultations by the authorities concerned. Thus we are not opposed in principle to use of the AAP.

On the basis of the contents of Ofgem's open letter and in view of this consultation, we do not oppose the use of AAP in this instance.

2. Looking forward, Centrica is concerned in respect of the future application of AAP. On page 6 of the open letter, Ofgem states that "since this would be the first time that Ofgem had considered this procedure as a means of approving tariffs, we would be likely to consult on it, albeit for a shorter time than usual due to the commercial urgency of the project timing." In our view, this implies that in future Ofgem does not

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intend to consult separately, but simply to use the process where Ofgem considers this appropriate. Centrica does not feel able to support such an approach in future.

3. An important consideration in the future use of AAP is that many stakeholders will struggle to monitor and respond to consultations in other jurisdictions, either due to language or workload, and may rely on being consulted when any proposal is considered within their home jurisdiction to make their views known/public. Also the original consultation may have been in another jurisdiction some considerable time previously, since when individual company or market considerations may have changed.

We believe this is particularly important as not all regulatory authorities conduct transparent consultations on such a wide range of issues as does Ofgem.

4. In our view there are essentially two key issues when considering Ofgem's use of AAP in future situations:
 - a) The quality/transparency of the consultation process in the first jurisdiction, and
 - b) The outcome of that consultation process and in particular whether the decision would be likely to be acceptable to stakeholders in Great Britain, insofar as this can be determined from the original consultation.

As a general rule, we believe that in future where Ofgem proposes to use AAP they should conduct a short consultation covering whether, in the circumstances, use of AAP is appropriate. To justify a proposal to use AAP, the consultation should include a clear account of the process followed in the other jurisdiction, together with either links to the underlying consultation documents or translations of the documents as appropriate. The Ofgem consultation should also include an account of the analysis carried out by the other regulator and how rigorous the approach has been relative to the GB process. The consultation will enable stakeholders in this country to assess clearly whether they are satisfied that the AAP approach is justified in the circumstances.

5. Finally, and prompted by some of the general concerns above, we would appreciate it if Ofgem could clarify a point in respect of the current drafting of Standard Licence Condition 10.

Our reading of SLC10 is that:

- a) Initial Approval: Prior to submission of a charging methodology to the Authority for approval, the licensee will take all reasonable steps to ensure that all persons who may have a direct interest in the charging methodology are consulted and allow them a period of not less than 28 days within which to make written representations. A report must then be furnished to the Authority.
- b) Review of charging methodology: The licensee must review the methodology at least annually and make such modifications as are needed to ensure it better achieves the relevant objectives. It must also review the methodology where the Authority so requests. The review in both these cases is subject to paragraphs 8, 9 and 10.

Paragraph 8 explicitly requires that the licensee shall not make a modification to the charging methodology unless they have taken all reasonable steps to consult everyone with a direct interest and allow at least 28 days to make written representations. A report must then be furnished to the Authority,

covering specified points.

Provisions are then included at paragraphs 11 and 12 on publication of the methodology and provision of copies.

- c) Approval by Approval: Paragraphs 13-16 relate to the establishment of a tariff or methodology using the approval by approval process.

Paragraph 15 specifically notes that where approval has been via a notice under paragraph 13, and the tariffs and/or methodology which have been established, have or are to be modified, then the licensee shall furnish a report to the Authority. The report is required to cover the terms originally proposed for the modification and representations made, if any, by any interested parties to the licensee.

Under the AAP provisions in the licence therefore, it does not appear that, once adopted, there is a requirement for the licensee to consult affected parties in the UK jurisdiction on any modifications to the tariffs or methodology.

We believe that even if a tariff or methodology is approved via the AAP process, any changes to it should be the subject of the usual 28 day consultation. We would welcome clarification of how affected stakeholders in this jurisdiction would be consulted on any changes.

We trust these comments have been useful, but if you would like to discuss any of these points in more detail, I should be happy to help.

Kind regards,

Yours sincerely,

By e-mail

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