

Stuart Cook  
Director, Transmission  
The Office of Gas and Electricity Markets  
9 Millbank  
London  
SW1P 3 GE

10<sup>th</sup> September 2009

Dear Stuart,

## **Informal consultation on Special Condition C8D of National Grid Gas's National Transmission System (NTS) Gas Transporter licence with respect to the Entry Capacity Substitution obligation**

Total E&P UK (TEP UK) welcomes the opportunity to respond to the above consultation.

The obligation on National Grid (NG) to implement entry capacity Substitution was introduced as part of the Transmission Price Control Review (TPCR) in December 2006. Since that time NG, the industry and Ofgem have spent countless hours trying to agree on both the interpretation and the practical application of this obligation.

After two and a half years of debate, on July 1<sup>st</sup> 2009, Ofgem published document 77/09 "Proposed Licence change to clarify Substitution Licence Condition". In this document Ofgem expressed surprise at the fact that the initial drafting of this Licence Obligation had led to confusion, but recognized the merit of amending the drafting to improve clarity. Amongst other changes this draft included Paragraph 10 (c) (iii) which read:

*"ensuring that entry capacity substitution is effected in a manner which seeks to minimise the reasonably expected costs associated with funded incremental obligated entry capacity, **whilst taking account of reasonable and foreseeable future demands for entry capacity**"*

This inclusion was welcomed by all respondents as it was in line with the views expressed by shippers to NG through the Informal Consultation on Substitution Methodology in June 2009.

On July 3<sup>rd</sup> 2009, Ofgem published another letter in which they informed the industry that they did not consider the Mechanical approach as an appropriate way forward, and that future forecasts of flow data should not be considered when deciding on the merit of Substitution. Ofgem believes that all entry capacity which has not been sold should be used to satisfy other entry capacity signals in the system, regardless of the possible future need of that entry capacity at the donor entry point.

This letter, just a couple of days after the proposed licence change took the industry by surprise and prompted questions about the coherence between the Licence draft and Ofgem's policy objectives.



On August 12<sup>th</sup> 2009, Ofgem issued yet another draft of this Licence Obligation, this time removing any reference to “*reasonable and foreseeable future demand*”.

We believe that this exclusion in the final draft is unfortunate and its application could contradict NG’s obligation to maintain an efficient and economic network. TEP UK understand Ofgem’s interest in preventing unnecessary investment in the National Transmission System but we believe that considering any unsold capacity as free to be moved away from an entry point could potentially lead to inefficient use of the NTS and greater costs for NG and consumers in later years, especially as NG is proposing exchange rates higher than 1:1 which means that every substitution will destroy entry capacity.

Given that the Substitution Methodology presented by NG to Ofgem is based on the current licence drafting we believe it difficult to incorporate any further changes at this stage. However we would like to bring to your attention the enormous amount of work that could have been avoided had Ofgem provided clear guidance on the Objectives that the Licensee was required to achieve when it introduced this Obligation to the TPCR Final Proposals back in 2006. If anything we hope that this is a lesson to be kept for the upcoming TPCR. Work will soon start for the TPCR 2012 -2017, and the agenda looks already quite busy combined with the review of the RPI-X@ 20 principle.

We would like to stress the need for certainty, stability and predictability as part of a healthy regulatory environment, these crucial elements lead to investment which is the basis of secure gas supply to consumers.

Yours sincerely

Iain McCombie  
Commercial Operations Manager  
Total Exploration & Production UK Ltd.

*(This letter is sent electronically and therefore not signed)*

