

Andrew Wright
Senior Partner Markets
Ofgem
9 Millbank
London
SW1P 3GE



18 February 2009

Dear Andrew

Request for an exemption under section 19A of the Gas Act 1986 (as amended) (Gas Act) from the third party access requirements contained in Section 19B of the same Act.

We are writing to the Gas and Electricity Markets Authority (The Authority) to request an exemption from the requirement to offer short term third party access to a gas storage facility being developed at Warmingham near Crewe in Cheshire, under section 19A of the Gas Act.

This proposed facility will represent, in the worst case, storage capacity equating to less than 4% of total UK capacity. We believe this development to be a necessary and proportionate step to protect our customers from volatile prices as well as increasing the UK's security of supply.

Due to its size, we believe that the storage facility is not technically or economically necessary for the operation of an economically efficient gas market and as such does not require the provision of third party access.

We have carried out competition analysis to support this application for exemption from the requirements of third party access and to assist the Authority in making its determination. This analysis submitted to Ofgem shows that the proposed facility represents less than 10% of the total UK market for storage capacity and flexibility.

In line with our investment decisions we would like to meet with Ofgem in the near future to discuss our application and would be grateful if you could suggest some times and dates that are mutually agreeable. However, in the meantime if you have any questions regarding the application please do not hesitate to contact John Costa on 0203 126 2324 or myself.

Yours sincerely

A handwritten signature in black ink, appearing to read "D. Lintord".

Denis Lintord
Corporate Policy and Regulation Director

ANNEX

EDF Energy Ltd
Application for Exemption from 19B of the Gas Act
18th February 2009 (As updated in November 2009 following discussions with Ofgem)

1 Introduction

- 1.1 Project Revolution is a joint initiative between EDF Energy (EDFE) and EDF Trading Limited (EDFT), both wholly owned subsidiaries of EDF SA, to develop a new gas storage facility at Hilltop Farm at Warmingham in Cheshire. The facility will be wholly owned by EDF Energy however it will be physically operated under a service contract by EDFT.
- 1.2 The development will be in close proximity to EDFT's existing gas storage facility at Hole House Farm in Cheshire which operates under an existing TPA exemption granted in February 2005.
- 1.2 This is an application under section 19A(6)(a) of the Gas Act requesting an exemption from the application of section 19B in relation to the proposed new Revolution salt cavity gas storage facility.
- 1.3 When assessed against the definition of the appropriate market for flexibility, as set out in the Competition Commission's report on Centrica's acquisition of Rough Storage,¹ and in Ofgem's decision document granting an exemption to the Aldbrough facility² the proportion of flexibility that will be provided by the Revolution facility is not significant and **therefore the use of this facility by other persons is not necessary for the operation of an economically efficient gas market**. Furthermore, the size of the proposed Revolution facility is significantly smaller than that of the storage facility at Aldbrough for which Ofgem granted an exemption in October 2007.
- 1.4 It is clear that the market for flexibility in the UK is already highly competitive - with multiple sources and owners of flexibility. EDFE and EDFT both separately and/or together have a limited share of the UK flexibility market and even if an exemption is granted for Revolution, our combined market share will remain significantly below 10%. The efficient operation of the gas market would therefore not be impacted by an exemption being granted to the project as it does not raise any competition concerns.
- 1.5 The recent UK government Energy Markets Outlook Report³ recognises the contribution of gas storage to security of supply and the need for investment in additional storage capacity. Furthermore it highlights that delivery of such capacity in the short and medium term is likely to reduce some of the current volatility and uncertainty around availability of supplies at times of winter peak demand and help mitigate the risks of increasing gas import

¹ Centrica plc and Dynegy Storage Ltd and Dynegy Onshore Processing UK Ltd: A report on the merger situation; Competition Commission,

² Final Decision: Statoil UK Ltd's application for an exemption from section 19B of the Gas Act 1986: Ofgem, 25 October 2007

³ Energy Markets Output, DECC, Ofgem, December 2008

dependency. Consistent with Government policy and aims the development of the new Revolution facility will contribute to the management of UK security of supply risks.

2 Project detail

- 2.1 A number of existing brine cavities at Hilltop Farm, (which is located to the North East of Hole House Farm) will be converted into 10 gas storage cavities. It is anticipated that Phase 1 of the development will provide 2 new cavities - the first will be available for commercial operation from the 1st quarter of 2011 and the second by the end of 2011 - and is expected to initially **provide 220 GWh of capacity with 29 GWh/day of deliverability and 117 GWh/d of injectability**. A new gas plant is expected to be available for operation from the second quarter of 2012 – which is expected to increase the **final total deliverability and injectability of Revolution to 160 and 175 GWh/day respectively**. The remaining 8 cavities are expected to become commercially available over the period to early 2016 and provide an expected **final total capacity for Revolution of 1070 GWh**.
- 2.2 We consider that the new facility should be classified as mid-range due to its ability to cycle on a seasonal and non-seasonal basis.

3 Exemption requested

- 3.1 The new gas storage facility and the existing Hole House Farm storage facility are designed to be operated separately – although under certain emergency circumstances there is the possibility of operational flexibility between the two facilities. In addition, the legal ownership of the two facilities will also be separate – with EDFT retaining full ownership of the existing Hole House Farm facility and EDFE owning 100% of the new facility.
- 3.2 In light of this, the exemption requested in this application is for the new storage facility only. The existing exemption for the Hole House Farm storage facility does not require review or amendment.
- 3.3 However, given that EDFT and EDFE are part of the same Group, and to alleviate any concerns Ofgem may have that a separate exemption is being requested for the new facility in order to reduce respective market shares, the following competition analysis has been prepared on the basis of:
- the total capacity and deliverability from both the existing Hole House Farm facility and the new Revolution facility; and
 - the combined flexibility market shares of EDFE and EDFT.

4 Competition Analysis

- 4.1 In its letter on storage regulation, Ofgem suggested that a competition analysis should accompany any application for an exemption⁴.

⁴ The Second EU Gas Directive and storage regulation Great Britain: Ofgem, 25 November 2004

- 4.2** Based on the Competition Commission report into the acquisition of Rough storage facility by Centrica PLC, Ofgem defines the relevant product market against which exemptions should be tested as the flexibility market within Great Britain. Ofgem acknowledges in the Aldbrough Decision that the product definition of gas flexibility is not straightforward.⁵
- 4.3** The analysis in this application is consistent with Ofgem's Statoil Decision. The data presented incorporates **all** contracted sources of potential flexibility within the GB Gas Market available to the relevant companies, i.e. EDFE and EDFT.
- 4.4** The share of EDFE and EDFT of the flexibility market will increase with the construction of the new project. However, as stated above this increase is not significant and will not bring the combined EDF Energy and EDF Trading controlled storage capacity in the UK above minimal levels.
- 4.5** As detailed in the Ofgem Aldbrough Decision there are numerous sources of flexibility in the gas market. In addition to medium range storage these can broadly be characterised as follows: short range storage, long range storage, beach flexibility, LNG imports, pipeline imports and demand interruption. While theoretically all of the above sources of flexibility could be substituted for medium range storage, in the Aldbrough Decision Ofgem analysed historic substitutability between MRS and the above sources and concluded that there were three separate potential market definitions:
- a. Medium range storage (MRS) + Long range storage (LRS) + Imports through Interconnector UK (IUK) + Flexible beach + LNG imports,
 - b. MRS + LRS + IUK imports + Flexible beach + LNG imports + Flexible element of supplies from the Langed pipeline (200GWh/day),
 - c. MRS + LRS + IUK imports + Flexible beach + LNG imports + Flexible element of supplies from the Langed pipeline (600GWh/day).
- 4.6** In the Aldbrough Decision, Ofgem analysed the impact of discounting the applicant's holdings in other TPA facilities. While it is sensible to suppose that use it or lose it rules (UIOLI) in both LNG import facilities and IUK will prevent both capacity hoarding and the abuse of market power, like Ofgem we have elected to consider both the impacts of including and excluding flexibility available in these facilities.

The results of the analysis carried out are shown in Table 1 and Table 2 below. The tables represent the reproduction of the analysis carried out by Ofgem in its decision to provide Statoil with a TPA exemption in relation to its share of the Aldbrough facility.

⁵ Final Decision: Statoil UK Ltd's application for an exemption from section 19B of the Gas Act 1986: Ofgem, 25 October 2007

Table 1 – EDFE and EDFT Market Share of Flexibility Products 2010/2011

Ofgem Market definitions	a			b			c				
	2010/2011	Total	EDFE & EDFE (TPA)	EDFE & EDFT (TPAex)	Total	EDFE & EDFT (TPA)	EDFE & EDFT (TPAex)	Total	EDFE & EDFT (TPA)	EDFE & EDFT (TPAex)	
Beach Flexibility ¹	441			441			441				
LRS	455			455			455				
MRS ²	1903	Confidential			1903	Confidential			1903	Confidential	
LNG import ³	1539			1539			1539				
Iuk ⁴	433			433			433				
Langed	0			200			600				
Total Gwh/d	4771	Confidential			4971	Confidential			5371	Confidential	
EDFE & EDFT market share		◀ 5%		◀ 5%		◀ 5%		◀ 5%	◀ 5%		

¹Sean/Barrow as proxy for Beach Flexibility (Aldbrough Decision)

²MRS total market derived from National Grid Base Case projection for relevant year in National Grid Gas Transportation Ten Year

³LNG total market derived from National Grid Base Case projection for relevant year in National Grid gas Transportation Ten Year

Table 2 – EDFE and EDFT Market Share of Flexibility Products 2011/2012

Ofgem Market definitions	a			b			c				
	2011/2012	Total	EDF (TPA)	EDF (TPAex)	Total	EDF (TPA)	EDF (TPAex)	Total	EDF (TPA)	EDF (TPAex)	
Beach Flexibility ¹	441			441			441				
LRS	455			455			455				
MRS ²	2196	Confidential			2196	Confidential			2196	Confidential	
LNG import ³	1539			1539			1539				
Iuk ⁴	433			433			433				
Langed	0			200			600				
Total GWh/d	5063	Confidential			5263	Confidential			5663	Confidential	
EDFE & EDFT market share		5-10%		5-10%		5-10%		5-10%	5-10%		

¹Sean/Barrow as proxy for Beach Flexibility (Aldbrough Decision)

²MRS total market derived from National Grid Base Case projection for relevant year in National Grid Gas Transportation Ten Year Statement 2008

³LNG total market derived from National Grid Base Case projection for relevant year in National Grid gas Transportation Ten Year Statement 2008

⁴Limited IUK flexibility (433 Gwh/d) rather than capacity of 755Gwh/d (Aldbrough Decision). EDF flexibility reduced by same factor

4.7 It can be seen in all twelve scenarios EDFE and EDFT have a combined market share of significantly less than 10%.

4.8 Furthermore, in applying the assumptions employed by Ofgem in the Statoil Decision, the outputs are likely to underestimate the overall market for flexibility. For example: beach flexibility is far lower than that assumed by the Competition Commission in its report on the

merger of Centrica plc and Dynegy Storage Ltd; IUK has a full reverse flow capability of 755GWh/d, and BBL interconnector capacity is disregarded.

5 Conclusions

- 5.1 The analysis set out in this application supports an exemption from Section 19B of the Gas Act. The size of the storage facility is such that it is not technically or economically necessary for the operation of an economically efficient gas market such that third party access would be necessitated using the Ofgem Market Definitions for Flexibility. In addition, the market share of the EDFE and EDFT within the flexibility market is insignificant, independent of the market definition selected.