



Ian Marlee
Director, Trading Arrangements
OFGEM
9 Millbank
London
SW1P 3GE

5 November 2009

Dear Ian

Storengy UK Limited's application for an exemption from section 19B of the Gas Act 1986

EDF Energy welcomes the opportunity to respond to Ofgem's consultation on Storengy UK Ltd's application for an exemption from the obligation to offer negotiated Third Party Access at its Stublach storage facility.


EDF Energy supports the development of new gas storage infrastructure to meet the future requirements of the UK gas market, in view of diminishing indigenous gas supplies from the North Sea. The UK energy market is subject to an unprecedented degree of change as a result of stronger environmental objectives and, while it is unclear what exactly the future energy mix will be, what is important is that there should be new flexible assets to maintain an efficient and effective energy balance whilst minimising supply risks. Extra gas storage will also ensure and promote greater competition in the supply of gas to customers.

We welcome Ofgem's thorough assessment of whether negotiated TPA (nTPA) is required at GDF-Suez's Stublach gas storage facility in Cheshire, along with the inclusion of greater market competition criteria as set out in Ofgem's June 2009 open letter. This new level of analysis should ensure that the test for granting an exemption will be more robust in support of the conclusion that Article 19 of the Second Gas Directive does not apply where the asset is not economically and/ or technically necessary for providing efficient access to the system for supply to customers.

We have responded to Ofgem's questions in more detail in the attachment to this letter. In summary, from the analysis Ofgem has provided, EDF Energy agrees with Ofgem's initial conclusion that an exemption can be granted for phase 1 of the Stublach Gas Storage facility, as being a "minor" facility not needed for the technical or economical operation of an efficient gas market. However, we note that previous exemptions under the Gas Act were referred to officially as "*de minimis*" and question whether this term is no longer appropriate.

I hope you find these comments useful. However, please do not hesitate to contact John Costa on 0203 126 2324 or myself, if you wish to discuss this response further.

Yours sincerely

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

Denis Linford
Corporate Policy and Regulation Director

Attachment

Storengy UK Limited's application for an exemption from section 19B of the Gas Act 1986

EDF Energy's detailed response to Ofgem's questions

Assessment of "technically necessary"

Question 1	Do you agree with Ofgem's approach to considering whether nTPA is technically necessary for providing access to the system for the supply of customers? If not, please explain why.
	EDF Energy agrees with Ofgem's approach used for assessing whether nTPA is technically needed for securing the supply of customers. We agree with Ofgem's analysis used in assessing the level of supply loss over the winter period where Stublach may be technically needed. We recognise that it is difficult to model such occurrences in the future and welcome Ofgem's different scenarios to help mitigate any forecast risks.
Question 2	Do you agree with our overall assessment that nTPA at the proposed Stublach facility is not technically necessary for providing efficient access to the system for the supply of customers? If not, please explain why.
	EDF Energy agrees with Ofgem's overall assessment that it would take a significant, permanent loss of supply across the entire winter period for Stublach storage to become necessary in meeting forecast daily demand in at least one period (one day). We also agree that the Stublach facility will probably be delivering into the system on such high demand days anyway in response to market prices and therefore should not be a problem if an exemption is granted.

Assessment of "economically necessary"

Question 3	Do you consider that our market scenario analysis is appropriate? If not, please explain why.
	EDF Energy recognises that the UK gas market has undergone significant change and that this will potentially continue going forward especially as indigenous gas production from the North Sea declines, making the process of predicting the future difficult. However we agree with Ofgem's market scenario approach and analysis as used in previous exemption applications.
Question 4	In particular, do you consider that our three potential market definition scenarios to be appropriate? If not, please explain why.
	EDF Energy agrees with Ofgem's use of the three scenarios which were also used in their Aldborough storage exemption decision. It is important for the assumptions and criteria under which these exemptions are analysed to be consistent in order to compare applications like for like. However we also recognise that markets are dynamic and change and therefore agree with Ofgem's decision not to consider Norwegian flows as flexible as analysis shows these flows are mainly baseload and don't respond to market prices.
Question 5	Do you agree with Ofgem's approach to considering whether nTPA is economically necessary for providing access to the system for the supply of customers? If not, please explain why.

	EDF Energy agrees with Ofgem’s approach for deciding whether nTPA is economically necessary for the supply of customers as updated in their June 2009 TPA update. The extra criteria and level of analysis Ofgem has employed means any exemption granted will have been more thoroughly undertaken. However ultimately we believe that the decision to grant exemptions should be whether an asset is insignificant enough not to adversely affect competition. Indeed, the more assets there are the more competition should be generated and this should be facilitated as it is ultimately in the consumer’s interest.
Question 6	Do you agree with our overall assessment that nTPA at the proposed Stublach facility is not economically necessary for providing efficient access to the system for the supply of customers? If not, please explain why.
	EDF Energy generally supports Ofgem’s analysis and findings and therefore Ofgem’s initial view that the Stublach facility is not economically necessary for efficient and effective market. However it is not clear what the threshold for granting an exemption is although it appears from Ofgem’s analysis that it is under 10% share of the market for flexibility. The important point is to have consistency with regard to the definition and calculation of the market for flexibility. It is not clear how close Storengy’s assessment has come to this 10% threshold however we would welcome if Ofgem could clearly state what the acceptable threshold is and what they would be willing to accept as an acceptable minor facility at the margin. Also, previous exemptions for small facilities under the Gas Act section 19A were referred to officially as “ <i>de-minimis</i> ” however we note now that this has been replaced with “minor” facilities. It would be helpful if Ofgem could clarify whether the industry can still refer to such exemptions as <i>de-minimis</i> or should they now be called “minor” facilities.

Conclusion

Question 7	Do you agree with the drafting of the exemption order?
	Yes.
Question 8	Do you agree with our overall conclusion that an exemption should be granted to Storengy for Phase 1 of the proposed storage facility at Stublach?
	EDF energy agrees with Ofgem’s approach and analysis used in determining their initial conclusion and supports the granting of an exemption for Phase 1 only of the proposed storage facility at Stublach.

EDF Energy
November 2009