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Dear Claire,

RE: Operating Margins (OM) Contestability

E.ON UK recognises the difficult position faced by Ofgem in deciding whether or not to suspend the "C3" regulated prices applicable to National Grid LNG storage for Operating Margins purposes. As noted in our previous responses on this issue, it could be argued that NG LNG has a monopoly position in the provision of OM services in certain parts of the network, for instance, due to the strict deliverability requirements of National Grid NTS (NGG NTS). Clearly, where a monopoly position exists, it would not be appropriate to suspend the regulated prices, as it could expose Shippers - and ultimately consumers - to excessive costs.

One concern we have with Ofgem's proposal is that the test for "effective competition" is currently loosely defined and perhaps too simplistic. For instance, Ofgem notes that one test will be "*whether NGG NTS can purchase the complete volume of each of the OM requirement types from providers other than NGG LNG*". This does not seem to be a particularly in-depth approach; particularly when compared to the detailed analysis Ofgem would typically carry out for assessing competition in markets, elsewhere. We believe that given the time restrictions facing the industry for this year's OM tender, very little can be done now, but we would urge Ofgem to consider this issue and the definition of competition in OM provision in a further industry consultation well before next year's tender.

However, for us, the biggest obstacle as a potential participant in the forthcoming OM tender is the lack of clarity over the approval (or rejection) of NGG NTS' revised Safety Case. Although we note that this is strictly a matter between NGG NTS and HSE, we believe the issue moves into Ofgem's territory when it has an adverse impact on the associated OM tender process. Our latest information is that since National Grid did not submit the revised Safety Case until November 2009, HSE approval or rejection will only be known after the current tender has closed. As I'm sure you can appreciate, this uncertainty is extremely unhelpful for potential participants and may work to disincentive Shippers from participating



in this year's tender. In future years, Ofgem must monitor NGG NTS's work regarding the OM tender more closely and apply appropriate pressure to ensure all related processes and procedures are in place prior to competitive tender.

I hope that the above comments prove useful. Should you wish to discuss our response in any further detail, please do not hesitate to contact me on the number above.

Yours sincerely,

Richard Fairholme (by email)

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E.ON UK