



Ian Marley  
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OFGEM  
9 Millbank  
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SW1P 3GE

5 February 2010

Dear Ian

### **EDF Energy Plc'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 EDF Energy's application for an exemption from the obligation to offer negotiated Third Party Access at its Hill Top Farm storage facility.

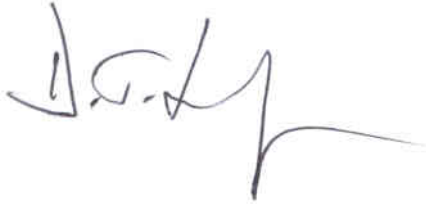
EDF Energy supports the development of new storage infrastructure to meet the future requirements of the UK gas market in light of decreasing indigenous gas supplies from the North Sea. The UK energy market is going through an unprecedented level of change as a result of a shift in supply and demand fundamentals and environmental objectives. Whilst it is unclear what the future energy mix will look like, what is important is that there are new flexible assets to maintain an efficient and effective energy balance whilst minimising supply risks. Hill Top Farm storage facility will help provide extra gas storage and flexibility in the UK market and 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 Hill Top Farm gas storage facility in Cheshire and the inclusion of greater market competition criteria as set out in Ofgem's June 2009 open letter. This new level of analysis ensures that the test for granting an exemption will be more thorough in ensuring 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 the supply of customers. However, we believe Ofgem's assumptions used in the assessment of the market for flexibility could lead to an underestimation of the amount of gas flexibility in the UK and should be reviewed.

We have answered Ofgem's questions in more detail in the appendix attached. However, in summary, EDF Energy agrees with Ofgem's assessment that an exemption can be granted for the HTF Gas Storage facility, being a "minor" facility not needed for the technical or economical operation of an efficient gas market. However we recognise that previous exemptions under the Gas Act were referred to officially as "*de minimis*" and question why this term is no longer appropriate.

I hope you find these comments useful. However, if you wish to discuss this response further please contact my colleague John Costa on 0203 126 2324 ([john.costa@edfenergy.com](mailto:john.costa@edfenergy.com)), or myself.

Yours sincerely

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

**Denis Linford**  
Corporate Policy and Regulation Director

## Appendix

### Assessment of “technically necessary”

Question 1	<b>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.</b>
	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 Hill Top Farm (HTF) 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	<b>Do you agree with our overall assessment that nTPA at the proposed HTF facility is not technically necessary for providing efficient access to the system for the supply of customers? If not, please explain why.</b>
	EDF Energy has not had access to Ofgem’s data used in their analysis however agrees it would take a significant, permanent loss of supply across the entire winter period for HTF storage to become necessary in meeting forecast daily demand in at least one period (one day). We also agree that the HTF 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	<b>Do you consider that our market scenario analysis is appropriate? If not, please explain why.</b>
	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 future gas flows difficult. However we agree with Ofgem’s market scenario approach and analysis as used in previous exemption applications.
Question 4	<b>In particular, do you consider that our three potential market definition scenarios to be appropriate? If not, please explain why.</b>
	EDF Energy agrees with Ofgem’s use of the three scenarios which were also used in their Aldborough and Storengy 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 it would be helpful if Ofgem shared their analysis with the industry also. However, given this winter’s experience we do not necessarily agree that with Ofgem’s decision not to consider Norwegian flows as flexible as it was clear that Ormen Lange increased flows considerably in response to peak UK demand and price spikes. We would hope this data would be used in future analysis of market flexibility to ensure all sources of flexibility is taken into account.

Question 5	<b>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.</b>
	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 by regulators as it is ultimately in the consumer's interest.
Question 6	<b>Do you agree with our overall assessment that nTPA at the proposed HTF facility is not economically necessary for providing efficient access to the system for the supply of customers? If not, please explain why.</b>
	EDF Energy generally supports Ofgem's stress test scenarios and conclusions that the HTF facility has no temporary market power and is not pivotal and therefore not economically necessary for an efficient and effective market. However whilst it is not clear what the threshold for granting an exemption is it is clear that EDF Energy will have in most cases less than 5% of market share of flexibility and less than 10% in the worst case.

#### Conclusion

Question 7	<b>Do you agree with our overall conclusion that an exemption should be granted to EDFE for the proposed Hill Top Farm gas storage facility?</b>
	EDF energy agrees with Ofgem's approach and analysis used in determining their initial conclusion and supports the granting of an exemption for the gas storage facility at HTF.
Question 8	<b>Do you agree with the drafting of the exemption order?</b>
	Yes.

EDF Energy  
February 2010