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**Guidance on the Third Party Access regulatory regime for gas storage facilities in Great Britain - Reference 135/10**

Thank you for the opportunity to comment on the proposed Guidance on Third Party Access to gas storage facilities.

This response is submitted on behalf of the Centrica group companies with the exception of Centrica Storage Limited.

The issue of third party access to gas storage facilities provides an important basis to Users of storage facilities as well as Storage System Operators (SSOs) and potential developers of storage facilities. This is an important factor in the current context of the increasing requirement for flexibility of gas supply.

The response to this consultation is provided in the form of answers to the questions posed. We recognise that this does facilitate assessment of the responses in a consistent manner.

**Chapter Three**

**Question 1: Should pivotal gas volume be used when assessing SMP? If no, please explain why.**

We agree that the pivotal gas volume test might be a reasonable one to apply to an SSO, provided that any weighting applied to the various sources of flexibility, e.g. LNG imports, accurately reflects the role of those sources in providing flexibility to the market. However, it should not be the only test applied and there is in our view no straightforward relationship between pivotality and SMP.

We would also comment that even when it is established that a party may be pivotal, as defined, it does not indicate that the party has any incentive to make use of SMP to (for example) withhold capacity from the flexibility market. This would

point towards an additional consideration, that being a behavioural test which could be established over time.

**Question 2: Is the proposed figure of ten per cent of pivotal gas volume an appropriate threshold for defining SMP? If no, what is an appropriate threshold?**

The simple figure of 10% is quite low. If this measure is set at too low a level, this may well erode the incentive for existing SSOs to consider new storage projects (since a significant number of such projects would be defined as pivotal).

However SMP is defined, it is essential to apply this test consistently across the market. For example, we believe that there is at least one instance of a TPA exemption being granted to an SSO who holds significantly more than 10% of total UK storage deliverability. Even allowing for other sources of daily flexibility, this suggests either that the 10% threshold is too low and/or that there is already a risk of it being applied inconsistently.

As indicated above, we believe that the simple assumption that a set level of pivotal gas indicates SMP is unsound. Other factors will have a bearing on the ability of a storage capacity holder to have a significant influence over the market.

**Question 3: Is it appropriate to also consider market outcomes to assess whether a market player may have SMP at lower levels of pivotality?**

Market outcomes would be a more reliable indicator of an SSO's ability to influence. This would enable assessment of the behaviour and application of resources available to an SSO when undue market influence is suspected. Any measure of SMP must be applied in an objective and consistent manner to ensure equitable outcomes.

**Question 4: Are there any additional factors that should be used when considering if a market participant has SMP?**

It would be appropriate to assess the amount of flexibility available to the amount of flexibility required. If available capacity is fully utilised by the services sold to third parties, then there is little the SSO can do to influence the market price.

SMP can also be reduced by adequate transparency of operation, which would disclose any attempt to restrict access to storage services.

**Chapter: Four**

**Question 1: What factors should be taken into consideration when defining the maximum capacity of a group of facilities?**

The Gas Regulation gives specific requirements in defining the maximum capacity. The Storage System Operator will have the ability to control/amend certain operational parameters which will affect the maximum capacity. We are of the view that the requirements, also within the Gas Regulation, for information disclosure by SSOs provide sufficient detail for market participants to make a full assessment of the capability of a facility.

This requirement for information disclosure is applicable to multiple facilities and we agree that disclosure should be across the multiple facilities where services are offered on that basis by the SSO. All facilities within a group, including those with a TPA exemption, should be included for purposes of making this assessment.

**Question 2: What concerns, if any, do market participants have with Ofgem's preliminary views on capacity allocation? What concerns, if any, do storage users have with the use of allocation mechanisms other than auctions to allocate capacity, particularly standard services?**

The primary objective for the allocation process is that the capacity is offered to all parties using an open, transparent and non-discriminatory method. These requirements could potentially be fulfilled by an auction process, which may be annual or more frequent, or by a continuous offer process if it meets these criteria. If the former approach is used, any capacity remaining unsold in the auction should be available in the shorter term or as a continuous offer process, rather than (for example) defaulting to the SSO's own merchant affiliate.

It is important to recognise that the continuous offer approach can afford more flexibility and optionality to an SSO's customers, as compared to a "one-off" annual auction – and therefore it may be preferable to customers to have access to such a continuous sales process (as long as the terms are sufficiently transparent to ensure equal treatment), rather than a one-off purchase opportunity. We also note that some existing GB storage auctions do not satisfy the "open, transparent and non-discriminatory" test. In line with the EU Regulation, we consider that the proposed guidelines should be oriented first and foremost to this objective, rather than set out *ex ante* a preference for one particular capacity allocation mechanism, such as auctions.

**Question 3: Does the use of auctions provide market participants with sufficient safeguards that any market player with SMP will provide standard services to the market on a non discriminatory basis? What other measures/safeguards in relation to how any market player with SMP allocates capacity could be considered?**

We would strongly caution against any assumption that an auction process necessarily provides a fair or appropriate allocation mechanism; it is entirely feasible for auctions to be conducted in a manner which is neither fair nor appropriate, but rather is designed to deliver a specific outcome to the advantage of the SSO or its affiliates. Therefore, regardless of whether auctions or another sales process are used, we would welcome enhanced requirements for transparency around any capacity release process, with regulatory oversight and even intervention where genuine concerns exist around capacity allocation. As set out above, any capacity allocation process should meet the requirements of equal access in a transparent and non-discriminatory manner.

**Question 4: Do market participants consider that the prevailing anti hoarding arrangements currently in place at GB storage facilities that are subject to the TPA regime are appropriate and compatible with the requirements of the Gas Regulation? If no, please explain why.**

Given that capacity in a storage facility should be available without restriction to all parties in an open and non-discriminatory way, it follows that there are provisions to provide access to capacity which is unused. As stated, there are examples of good practice at facilities which offer interruptible services which are well utilised. These services are available to any party meeting the usual requirements of contract and credit cover. We consider that storage facilities which are exempt from TPA should also be subject to anti-hoarding provisions. To be effective as an anti-hoarding measure, all capacities should be in scope.

We believe that this would comply with the requirements of the Gas Regulation. There are further requirements regarding the provision of information on the service, in Article 19(2) & (4), which we believe are fulfilled by current practice.

**Question 5: Do market participants consider that the mix of interruptible and firm storage services is appropriate and compatible with the requirements of the Gas Regulation? If no, please explain why.**

This combination of firm and interruptible capacity offered as a primary service by the SSO meets the requirements of the Gas Regulation.

**Question 6: Do market participants consider that the existing arrangements for the secondary trading of storage capacity are appropriate and compatible with the requirements of the Gas Regulation? If no, please explain why.**

There are in place arrangements for Secondary Trading of storage capacity. Although the SSO is limited in its ability to create an active market in secondary capacity, there is already an obligation upon SSOs to facilitate and promote this trading.

## **Chapter Five**

**Question 1: What levels of consultation should SSOs undertake when developing main commercial conditions for the first time and when proposing amendments to the standard terms and conditions?**

In alignment with the requirements for openness and transparency, we would expect to see wide consultation on the initiation and amendment of commercial conditions. Naturally, this must be within the bounds of reasonableness on the basis of cost and efficiency, but we would anticipate that SSOs would make reasonable endeavours to consult with all current users in the case of amendment and all potential users in the case of new services. We believe that the Guidelines for Good TPA Practice (GGPSSO) make some provision in this respect.

In certain respects there may also be a requirement to consult other affected System Operators. We agree that SSOs are best placed to define the target recipients of such consultations and that this should fulfil the requirements of the EU legislation.

That said, there may be a very few exceptions to the need for extensive consultation, for example where an SSO genuinely seeks to market test a new product the availability of which is restricted by both volume (e.g. to a limited

number of customers), and the duration of the market test. In such cases it may be appropriate to simply advise other customers of the terms of the market test, rather than conduct a full consultation exercise.

**Question 2: Are there aspects of an SSO's main commercial conditions where small changes are likely to have a significant impact on system users?**

This is central to the purpose and rationale of a consultation. The SSO will have an insight into the use of their facility by their customers but they cannot foresee all the consequences of proposed changes. Even seemingly minor changes could have a material impact upon a particular user's operation.

**Question 3: Should SSOs be expected to formally consult or test the market before changing existing services or offering any new services to the market? If no, please explain why.**

Whilst we believe that there should always be a presumption towards a requirement to consult existing and/or potential customers for new products or changes to existing ones, we believe that this requirement should not be overtly disproportional. For example, if a single customer requests a product which affects just a tiny percentage of the total SSO's offering, it may not be appropriate to require a comprehensive and expensive consultation exercise.

**Question 4: Should SSOs be expected to offer a minimum threshold of capacity on a short term basis? How should SSOs determine the minimum proportion of capacity that should be sold on a short term basis?**

There is a balance to be struck in the distribution of the mix of long and short-term capacities. There is an advantage in long-term capacity for both users, to secure a service into the future, and to SSOs in confirming a return, particularly when this is underpinning investment. However, short-term capacity also provides benefits both in enabling users to fine tune their requirements in the short-term, allowing new entrants to acquire capacity as well as allowing the SSO to maximise the potential from the facility with knowledge of current conditions. It is therefore reasonable to reserve a proportion of the capacity from the long-term sale/auction.

The precise split between long and short-term is more difficult to prescribe across all facilities. For example CSL is obliged to offer at least 20% of Rough capacity as annual contracts, which might prove a sensible starting point for the conditions applied to all SSOs.

It would therefore appear practical to commence with a straight percentage minimum of around 20% reserved for short term contracts (meaning those no longer than one year) and this may be refined by individual SSOs to meet the requirements of their customers. The arbiter of success in this respect is a reasonable availability of each product across their customer base.

**Question 5: Should SSOs be expected to offer bundled capacity as part of their standard services? Should SSOs be expected to also offer unbundled capacity as part of their standard services? Please explain your views.**

We are not clear whether “bundled” in this context refers to a single product comprising injection plus space plus deliverability, or rather whether “bundled” refers to a storage offering which includes NTS entry capacity.

Generally, however, we are of the opinion that gas storage customers value choice, in order to tailor a product to their specific flexibility requirements. These requirements are likely to vary according to, for example, access to other sources of flexibility, and differing customer portfolios. To this end, we believe that the most customer focused approach would be a requirement to offer both bundled and unbundled products. This affords the optionality to customers to refine the service acquired to give a best fit to their needs.

## **Chapter Six**

### **Question 1: What factors should Ofgem take into consideration when assessing a market player’s flexible gas requirements and, in particular, need for storage services?**

This question is specifically focussed upon those market players where there is a Storage operation and a downstream sales operation within the same group. The Gas Directive sets out requirements for adequate separation of these activities. With these overarching requirements and robust monitoring/reporting arrangements in place, many of the concerns of market players being able to gain a competitive advantage from this relationship are addressed. The requirement for open, transparent and non discriminatory services ensures that no advantage can be gained. With the addition of the requirements of transparency of the SSO operation, this provides additional controls that any discrimination in favour of or against, any party would be immediately evident.

Measures of the need for flexibility in supply can be demonstrated by the requirement for flexibility in demand.

We are of the view that the setting of an arbitrary limit on the amount of storage that can be retained (e.g. by virtue of the Rough Undertakings) is unnecessary when the requirements of separation and transparency of operation have been fulfilled. The removal of these restrictions should be possible with the 3<sup>rd</sup> EU package in place. This allows all parties (affiliates and Third Parties) to bid into the market for storage capacity in a fair and equitable way.

## **Chapter Seven**

### **Question 1: Do SSOs provide sufficient information on the services they offer and the terms and conditions of access? Is any further information required? Are there any improvements that could be made to how information is provided by SSOs?**

The information provided by some SSOs is sufficient but this is not consistent across all Operators. Some SSOs can be cited as exemplars of information provision as a standard. The Guideline for Good Practice (GGPSSO) provides a

standard for this, and could be employed to define a minimum standard for information provision.

**Question 2: Do SSOs provide sufficient information on the maximum capacity and the level of utilisation? What further information is required? Are the current timeframes for providing this information appropriate?**

This is also variable across providers. The nature of information on total capacity and utilisation is key to users of an interruptible service to assess the possibility of interruption. This can only be meaningful if the information is available at close to real time.

**Question 3: Should SSOs publish the information required under section 19(4) on their websites or should NGG undertake this role for all SSOs?**

The ability to publish this information in the detail and frequency obviously places a burden upon the SSO. We would note that this requirement under 19(4) is also applicable to those facilities with TPA Exemption.

For the larger SSOs this capability is well within their resources as is proven by the current provision by some SSOs. However, this burden may place a disproportionate effort on the smaller providers. For this reason we believe that there is merit in requiring National Grid to provide a platform for publication of this information. As this would provide a useful resource for Storage users, it would make sense for the information for all SSOs to be available on a single platform

I trust that these comments and suggestions are helpful and constructive in determining the final structure of Ofgem's guidance on third party access to gas storage facilities. Please let me know if you require any further information on our response.

I would confirm that nothing in this response is regarded as confidential and we have no concern about it being available to others via your web-site.

Yours sincerely

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