



Ian Marlee
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Dear Ian

Guidance on the Third Party Access Regulatory Regime for Gas Storage Facilities

The Gas Storage Operators Group (GSOG) is a trade association which was formed in May 2006 within the Society of British Gas Industries (SBGI). The group has 17 members and comprises of almost all the active participants in the GB Gas Storage Market, and as such represents a wide range of interests. The group includes both established operators and developers of new storage projects, large multinational companies and smaller private ventures. The current members of the group and signatories to this submission are detailed in Appendix A.

GSOG welcomes the opportunity to participate in the consultation process on Guidance on the Third Party Access Regulatory Regime for Gas Storage Facilities. We have detailed our responses to the consultation questions in the attached annex; however we would like to take the opportunity to reiterate our high level views.

As Ofgem is no doubt aware, the investment challenges in the GB gas storage market remain formidable despite the welcome reforms to the planning regime introduced by the 2008 Planning and Energy Acts and the fiscal stimulus provided by HMRC's clarification on the taxable status of cushion gas. Revenue streams remain uncertain with the winter summer spread trend narrowing (we have seen a c50% reduction in spread value during the 2010 storage year); capital remains scarce in part cause by the competition arising from the UK's £200bn energy investment challenge; engineering cost uncertainty is inherent in these types of complex and expensive projects and there is continued uncertainty surrounding the extent to which statutory agencies will extract value; the Ratings Agency have recently proposed a 400% increase in Business Rates and there remains opaqueness of The Crown Estate charging regime and threat of 'open market' related rent reviews.

These investment challenges sit uncomfortably alongside the Government's desire to see more gas storage delivered to the GB market; in the recently published Statutory Security of Supply Report, a report produced jointly by DECC and Ofgem, the importance of gas storage has been highlighted "*Storage is also one option for dealing with short-term demand*

fluctuations or supply disruptions, which the UK may be further exposed to as it becomes increasingly import independent. Storage will also become increasingly important as the power contribution from wind increases, whereby gas fired CCGTs are expected to provide cover for wind intermittency. The flexibility of storage sites – expressed crucially in terms of the withdrawal (and injection) rate – will be key in helping to meet short-term demand fluctuations”.

Against this backdrop, GSOG believes that it is incumbent on the Government and indeed Ofgem as the agent responsible for implementing Government policy, to keep additional political and regulatory risk to a minimum if the UK is to benefit from future positive investment decisions in gas storage facilities. To that end GSOG would like to express its concern that some of the proposed requirements or expectations Ofgem has put forward in this consultation document appear to go far beyond that is required to comply with the requirements of the Third Energy Package.

The Third Energy Package was introduced to remedy a number of market failures including the continuing market power of incumbents in many Member States and the inadequate separation of network and supply companies leading to foreclosure of new entrants and investments; these failures do not present themselves in the GB gas market and given this GSOG would have hoped for a lighter touch set of guidelines than Ofgem has proposed.

We hope that you have found these comments useful and please do not hesitate to contact us if you wish to discuss the response further.

Yours sincerely



pp Roddy Monroe
Chair – Gas Storage Operators Group

APPENDIX A

SBGI GSOG MEMBERS

BGE UK
Centrica Storage Ltd
Cheshire Cavity Storage Group Ltd
E.ON Gas Storage UK Ltd
EDF Trading Gas Storage Ltd
Eni UK Ltd
Gateway Gas Storage Company Ltd
Halite Energy Group
INEOS Enterprises Ltd
Infrastrata Plc
National Grid LNG Storage
Scottish Power Energy Management Ltd
SSE Hornsea Ltd
Star Energy Group plc
Statoil (UK) Ltd
Storengy UK Ltd
WINGAS Storage UK Ltd

Annex: Consultation Question Responses

Chapter 3

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

GSOG welcomes Ofgem's preliminary view to assess SMP using a hybrid approach as we agree that due to the complexities of the gas market, no one measure in isolation is sufficient to accurately assess SMP.

However, the information provided within the consultation document is insufficient to allow GSOG to provide comment on whether the use pivotal gas volume as one of the SMP assessment criteria is appropriate. We request that Ofgem conduct a follow on consultation which includes the following key information: a detailed explanation as to how the analysis will be conducted; a clear market definition; the assumptions which will be used; and full details of the factors which will be taken into account.

It should be noted that without this level of clarity, in addition to not being able to provide informed comment on the assessment methodology, operators will be unable to assess whether they are regarded by Ofgem as having SMP. Therefore, operators will be unable to assess which SMP good practice safeguards suggested in the guidance document, they are expected to have in place.

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?

Until GSOG has access to further detail regarding the SMP methodology, we are unable to provide comment on whether the ten percent threshold is appropriate.

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

In the interests of providing stability in the market and certainty to investors and SSOs, we believe a fixed level should be set, below which the SSO would not be deemed to have SMP, to provide assurance to SSO that the good practice safeguards that they have in place, are appropriate for their facility.

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

Until GSOG has access to further detail regarding the SMP methodology, we are unable to provide comment on what additional factors should be included.

Chapter 4

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

GSOG believes that the SSO is best placed to define the maximum capacity of its own facilities, free from regulatory interference. In a group of facilities, this maximum should be the sum of the maximum for each individual facility.

2. What concerns, if any, do market participants have with Ofgem's preliminary views on capacity allocation?

The Third Package does not stipulate a requirement for a specific capacity allocation process and GSOG does not believe it is appropriate for Ofgem to introduce unnecessary requirements or a preference for one methodology over another. Where any method can be proven to be third package compliant, this should be accepted by Ofgem to be as credible as any other method.

What concerns, if any, do storage users have with the use of allocation mechanisms other than auctions to allocate capacity, particularly standard services?

GSOG believes that the existing processes which are used within the allocation mechanisms which are in use by SSOs in the UK, are sufficiently objective, transparent and non discriminatory.

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?

The current safeguards in place have proven sufficient as no adverse regulatory issues have arisen. We believe it would be inappropriate for Ofgem to introduce unnecessary requirements in an already highly competitive market.

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.

GSOG believes the current arrangements satisfy the Third Package requirements and that they are fit for purpose.

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.

GSOG believes the current arrangements satisfy the Third Package requirements and that they efficiently serve market demand.

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.

GSOG believes the current arrangements satisfy the Third Package requirements and that they efficiently serve market demand.

Chapter 5

- 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?**

GSOG agrees with the approach suggested in the consultation document.

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

No. GSOG believes all conditions are of equal importance.

- 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.**

No. Requiring SSOs to do so would be an unnecessary burden and would be effectively gold-plating the third package requirements.

- 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?**

We do not believe that SSOs should be expected to offer a minimum threshold of capacity on a short term basis. Given the current need for storage investment in the UK, measures must not be introduced which would reduce the ability to sell long-term contracts for capacity which underpin investment.

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

No. The selling of unbundled services as part of the standard capacity offering will result in stranded capacity as not all of the unbundled components will see equal demand.

Chapter 6

- 1. What factors should Ofgem take into consideration when assessing a market player's flexible gas requirements and, in particular, need for storage services?**

Ofgem should consider the player's full supply and demand chain.

Chapter 7

- 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?**

Yes. No further information is required.

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?

Yes.

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

GSOG has proposed that NGG should publish on its website the information required under Article 19.4 of Regulation 715/2009 on behalf of SSOs. GSOG believes that the centralised publication on NGG's platform will increase the ease of access to such information by market participants. The proposed arrangement shall also minimise the cost of implementation and it shall avoid inconsistencies among published data.

Additional Comment - Reserve Pricing

As the Third Package does not stipulate a requirement for a reserve pricing methodology to be established by market players, we do not believe it is appropriate for Ofgem to do so in an already highly competitive market. We were disappointed to find that there was no specific consultation question on the proposal considering this is such a key investment driver.

We strongly oppose Ofgem's proposal that SSOs should set the reserve price for short run services at the short run avoidable cost. As stated in section 5.18. "Currently, facilities that are subject to the nTPA requirements in the GB market offer the majority of capacity as standard bundled units on a year ahead basis". Forcing an SSO to set a reserve price for the majority of its capacity which takes account of only the short run avoidable cost level, and does not include long run marginal cost or the intrinsic value of the capacity, will certainly create a hiatus in investment and may result in moving investment in existing and new built storage facilities from marginal to uneconomic.

As stated above, we oppose the introduction of any reserve pricing methodology. However, if Ofgem believe one must be introduced, we believe that the reserve price for both short run and long run services should only be set using at least the long run marginal cost.