

Our date  
15.12.2010

Our reference  
Guidance on TPA

Administrative officer  
Shelley Rouse

Your date  
19.10.2010

Your reference  
135/10

Statoil (U.K.) Limited

Ian Marlee  
Partner, GB Markets  
Ofgem  
9 Millbank  
London SW1P 3GE

Dear Ian,

RE: Guidance on the Third Party Access regulatory regime for gas storage facilities in Great Britain.

Thank you for the opportunity to comment on the above consultation. As an owner of the Aldbrough Gas Storage facility with the potential to invest further in development of storage infrastructure in GB Statoil, have a great interest in current discussions surrounding the negotiated Third party Access Regime and how the requirements of the Third Energy Package are implemented.

It is clear that there is a need for additional gas storage in GB, yet a number of factors including mixed political messages over the future requirement for natural gas are contributing to undermining the investment case. There is a real risk that over regulation or increased regulatory uncertainty will make investment in gas storage unviable.

Statoil welcomes DECC's view that the negotiated Third Party Access arrangements currently in operation in GB are to be maintained, as it is this current light touch approach that has allowed GB gas storage levels to increase dramatically in recent years.

Whilst it acknowledges that Ofgem's market monitoring powers will be increased under the third package, Statoil do have concern that the additional guidelines around nTPA could deter future investments in gas storage and make the GB market an unattractive destination for supplies.

As such we have made some comments on the recent nTPA guidelines consultation to which we would welcome further clarity from Ofgem.

#### **ACCESS TO GAS STORAGE AND MARKET POWER:**

Statoil accept Ofgem's view that given the level of competition in the UK gas market the instances of players with Significant Market Power (SMP) are likely to be few. Statoil also believe that the requirements for unbundling within the Gas Regulation are clear and a natural gas undertakings compliance with these requirements this will lessen the instances of SMP experienced in GB even further.

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Statoil therefore would like a clearer understanding as to how and when a market player will be subject to SMP assessment. It is unclear from the guidelines document whether as part of its increased market monitoring powers, Ofgem will be assessing all market players, or whether assessment will take place as part of approval of nTPA capacity allocation mechanisms or would only those undertakings that are highlighted as a concern by other market participants be considered. Is it Ofgem's position to allow the market to operate freely and only intervene when it suspects that these guidelines are not being followed, or should operators seek prior approval for their allocation methodologies?

Although the flexibility for market players to assess their own SMP is welcomed, the use of a hybrid approach and the acknowledgement that pivotality is a conservative assessment adds increased uncertainty. Further detail on the recommended inputs to the pivotality analysis and the hierarchy to be given to additional structural factors when using the hybrid assessment approach would be welcomed.

We would also like confirmation of our understanding that the SMP approach will not be used for de minimis assessments, when considering exemptions from the Third Party Access arrangements. Statoil believe that DECCs current guidance on nTPA exemptions is not impacted by this guidance document of the proposals under the third package.

Statoil would recommend that further workshops are held by Ofgem on the topic of SMP assessment and the use of the pivotality models with the possibility of the models being made available to the industry. This would offer much needed comfort and reassurance to the industry and give some much needed certainty as to how the process would work.

Without further clarity and reassurance in this area Statoil believe that there is a risk that the additional levels of complexity and risk of completing analysis which was not accepted by the authority, could encourage large players to invest in the purchase of capacity at existing facilities rather than in building the much needed additional storage facilities in GB, or that investments could be made in storage facilities in countries other than the UK.

## **CAPACITY ALLOCATION AND CONGESTION MANAGEMENT PROCEDURES**

Statoil is a strong supporter of the use of market based approaches for capacity allocation and congestion management believing that auctions offer the levels of objectivity and transparency required.

For the allocation of capacity in existing facilities that have nTPA we have a preference for auctions to be used for the allocation of capacity, with SSOs having the ability to set auction reserve prices that reflect the intrinsic value of the storage service to be provided.

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However there are instances where auctions, will not provide the necessary financial certainty, particularly for new facilities, to underwrite the high levels of investment needed.

Markets need to operate with an optimum balance of bilateral and tendered transactions. The ability for an SSO to enter into tailored bilateral contracts that consider elements such as the provision of cushion gas and project financing is vital. Allowing the SSO some discretion in this area will help to encourage storage investment in GB. Furthermore enabling bilateral negotiation will generate product innovation which will benefit the market by making new products available.

The anti-hoarding arrangements currently in place at GB storage facilities are effective. Use it or lose it arrangements combined with interruptible services help to ensure that unused capacity is made available to the market. Statoil welcome Ofgem's view that these arrangements are consistent with requirements of the gas regulation.

#### **MAIN COMMERCIAL CONDITIONS AND SERVICE SPECIFICATION**

Article 33(3) of the Gas Directive requires SSOs to publish the main commercial conditions for the use of storage annually and that system users are consulted when these conditions are developed, although the level of consultation that should take place is not defined.

Whilst Statoil accepts that the consultation criteria proposed by Ofgem is for guidance, flexibility for SSOs to develop their own processes that fit their requirements is vital.

SSOs have a full understanding of the economic needs of their facilities and the requirements of the Third package, by allowing them to develop and implement a consultation method and process that assesses the market need for a range of potential services such Firm and Interruptible products of varying contract lengths, with no restrictions on the amount of short term capacity that should be sold short term, it is more likely that a solid investment case can be made.

It is here also that SSOs should have the flexibility to enter into tailored contracts that fulfil specific requirements of all parties concerned. Whilst Ofgem recognise that tailored contracts for extended durations are currently in operation, the role that these contracts play in the successful operation of the storage market should not be underestimated.

#### **TRANSACTIONS WITH RELATED UNDERTAKINGS**

When considering a market players requirement for flexible gas, all elements of the players supply and demand change should be taken into consideration.

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When assessing sources of supply full consideration should be given to whether these sources are truly flexible and how much volume is subject to long term contracts. On the demand side consideration should be given to the types of demand within the portfolio, whether it is likely to be related to industrial offtakes and therefore not related to seasonal demand fluctuations, or whether the demand is interruptible.

Statoil welcomes the view of Ofgem that no upper limit is proposed on the amount of capacity that market players can hold at their own storage facilities as long as this amount can be justified.

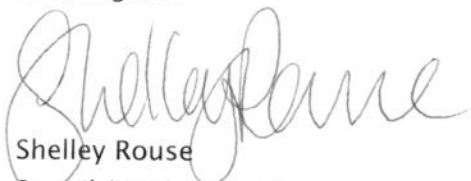
### **TRANSPARENCY AND INFORMATION SHARING ARRANGEMENTS**

Statoil believe that SSOs operating nTPA facilities currently provide sufficient information on the services that they offer, including the terms and conditions of storage access and the maximum level of capacity and utilisation.

Statoil believe that the Third Package requirements with regard to the publication of information would be best managed by NGG who already have a recognised platform in place where such information could be displayed.

If you have any further questions or require any further information please contact me on the below numbers -

Kind regards



Shelley Rouse  
Statoil (U.K.) Limited