



Mark Cox
Associate Partner
OFGEM
9 Millbank
LONDON SW1P 3GE

31 January 2011

4th Floor
Carthusian Court
12 Carthusian Street
London
EC1M 6EZ

Telephone: 020 7260 1785
Facsimile: 020 7260 1788
Email: richardbird@ukmajorports.org.uk
www.ukmajorports.org.uk

Dear Mark

GUIDANCE ON THIRD PARTY ACCESS CHARGES FOR LICENCE EXEMPT ELECTRICITY AND GAS NETWORKS

The UK Major Ports Group welcomes the opportunity to comment on the Ofgem consultation document published on 20 December last year. Several of our members groups (see below) are also likely to be responding to this consultation.

The UK Major Ports Group is one of the two associations representing ports in the UK. UKMPG's nine member groups operate over 40 ports in all parts of the UK and handle around 70% of the UK's international trade by volume. UKMPG member ports are all privately financed and do not seek financial help from the taxpayer. Annual investment in upgrading and developing ports facilities has been running at £200 – 300m a year and this will increase as several large development projects are taken forward. Moreover, a recent independent study has shown that UK ports directly and indirectly employ some 360,000 people and contribute around £18bn annually to UK GDP.

The third party access charge proposals set out in the consultation document affect UKMPG ports significantly. This is because many ports operate business estates on their land with tenants supplied with power through private supply networks which ports have installed and maintained. Ports also supply power to other customers who are not formally tenants, but use power as part of their day-to-day operations (e.g. shipping lines, cargo handling and maintenance support contractors).

We are concerned that these and other proposals relating to "Citiworks" are being brought forward in a very rushed way which is not allowing proper consideration despite the stated intention to minimize the impact on business. The over hasty implementation is also leading to difficulties in ports' negotiations with power suppliers because of the uncertainty which is being created in the market. We have therefore been taking the line in responding to DECC consultations that more time should be allowed for discussions with the industry before any proposals are brought forward to implement the "Citiworks" judgement in the UK. Our comments below on the Ofgem consultation document are subject to this overall reserve

THE UNITED KINGDOM MAJOR PORTS GROUP LTD

Associated British Ports | Belfast Harbour Commissioners | The Bristol Port Company | DP World London Gateway
Forth Ports Plc | Hutchison Ports (UK) Ltd | PD Teesport | Peel Ports | Port of London Authority

Registered in England No. 2787097

Our main specific comments are as follows

1. We welcome Ofgem's statement of principle that local network tariffs should recover costs incurred by exempt distribution system operator, and allow "reasonable profit" (page 2). We also welcome the assurance on p 10 that exempt network operators (ENOs) should retain the flexibility to recover network costs in a way that meets their needs and the needs of their network users.
2. However we are concerned that Ofgem have not identified all relevant costs in particular the losses that some port operators stand to make on forward supply contracts with power suppliers where minimum usage thresholds are not met because some tenants decide to opt out. This needs to be specifically provided for in the network costs to be taken into account in establishing the system charging methodology;
3. We also question whether the suggested cost of capital figure for licensed network operators given in para 3.18 (4.7%) makes appropriate provision for profit for exempt distribution network operators. This figure is at least 2% below the rate at which ports are currently able to borrow and expectations are that borrowing costs could rise significantly in the future. Unless a more appropriate figure is included, ports stand to make significant losses on their investment in the construction and maintenance of private networks which is contrary to Ofgem's overall statement at (1) above;
4. The section in the document on connection costs is thin and does not provide clarity on the types of cost which should be allowed (eg metering costs, costs of having to upgrade local system to meet requirements of licensed network operators, and the additional administrative, financial and legal costs falling on ports all of which should be recognised as reasonable costs for establishing what the connection charge should be);
5. On timing it is unsatisfactory there is no commitment by Ofgem to respond to requests for methodology approval within a specified timetable –para 5.6 merely says this will be done "in as timely a manner as possible". Yet exempt distribution operators are expected not to delay third party access pending approval of a proposed methodology (para 5.5). This could put ports in a very exposed position should Ofgem not approve the methodology or take a long time before doing so.

We are also unclear to what extent the guidance arrangements set out in the consultation document are also intended to apply to Northern Ireland where electricity regulation is the responsibility of the Northern Ireland Utility Regulator. This may be more of a point for DECC (Chris Chown) to whom we are sending a copy of this consultation response.

As stated above we hope that the unrealistic timetable for Citiworks implementation will now be reconsidered. This would allow time for meaningful discussions with Ofgem and DECC on these matters and enable officials to gain a proper understanding of the challenging issues which these proposals present to ports.

Yours sincerely

A handwritten signature in black ink that reads "Richard Bird". The signature is written in a cursive style with a large initial 'R'.

RICHARD BIRD
UKMPG Executive Director