

Francesca Caputo
Economist, Markets
Ofgem
9 Millbank
London
SW1P 3GE

Oslo, 23 November 2011

Dear Francesca,

Consultation on the regulated Third Party Access regime for Liquefied Natural Gas facilities in Great Britain

Port Meridian Energy Limited (Port Meridian) welcomes the opportunity to comment on this consultation. Port Meridian is an LNG regas project situated off Barrow-in-Furness of the North West coast of England. Use of Port Meridian is a bundled service comprising regasification services using an LNG vessel with LNG regasification capability (Regas Vessel) through a submerged buoy and a pipeline to the National Transmission System (NTS) interconnection.

Port Meridian is fully owned by Höegh LNG, which is a fully integrated ship-owning company offering long-term floating production, transportation, regasification and terminal solutions for Liquefied Natural Gas (LNG).

Port Meridian recognises that although the current LNG facilities in Great Britain (GB) are exempt from third party access requirements, the role of LNG in the GB energy markets is of increasing importance and investment in further LNG storage facilities is necessary. Given this, greater clarity and certainty is required by all potential investors and participants in this market when considering compliance requirements with regulated third party access (rTPA) arrangements. Understanding Ofgem's interpretation and practical application of the EU Third Internal Energy package (the Third Package) is extremely helpful as is greater understanding of governance, monitoring and enforcement and how these apply going forward following the proposed amendments to the Gas Act.

We have perused the Consultation and offer responses to Ofgem's posed questions when practical. We acknowledge that existing providers of LNG storage facilities in the GB market will offer a more rounded view based on practical experience in some areas; where we feel this is the case we have indicated so.

CHAPTER: One

There are no questions in this chapter.

CHAPTER: Two

Question 1: What level of consultation should an LNG system operator undertake when developing its main commercial conditions for the first time or when proposing amendments to its standard terms and conditions?

A full and thorough consultation process is in the interest of both the LNG System Operator and market participants for both new and existing services. A consultation process should deliver a process that is both transparent and easy to access; this will help to secure Ofgem's primary objective of ensuring all capacity is made available to the market. To the extent that a number of new entrants are envisaged or new services proposed, it may be helpful to propose a standard consultation format to facilitate the process.



HÖEGH LNG



Question 2: Should an LNG system operator be expected to formally consult or test the market before changing existing services or offering any new services to the market? If no, please provide your reasons.

We anticipate that LNG System Operators would find it in their own interest to consult the market before changing existing services or offering any new services and therefore the administrative and commercial difference between a formal and an informal consultation are in most cases likely to be minimal. We therefore in general support the requirement for a formal consultation. However, it is important to recognise that at times commercial circumstances may require LNG system operators to respond quickly and flexibly to market demand. In such circumstances, it may not be practicable for a formal consultation to take place. We therefore recommend that while consultation should be the 'default' LNG system operators should have the flexibility to change services or offer new services without consultation where appropriate.

Question 3: Do market participants have any concerns with our preliminary views on capacity allocation?

Port Meridian acknowledges Ofgem's stance that market based arrangements, whether auctions or open season procedures, are the most appropriate by which capacity can be allocated and ensuring compliance with the Third Package. However, particularly in relation to the development of new facilities, it is important for investors to have confidence in the stability of the regulatory regime (and interpretation of rTPA). Without stability and certainty, investors will be concerned that revenues will not be guaranteed and investments undermined.

In relation to long term capacity sales and underpinning investment, while Port Meridian supports the principles of both market based arrangements, it has concerns about the practical application and level of transparency for open season procedures as implied in ERGEG's Guidelines for Good Practice on Open Season Procedures (GGPOS).

We support the principle of an initial consultation as outlined in Phase 1 and would envisage that subsequent consultations incorporating different terms (tariff and duration) may prove necessary on receipt of feedback. Thereafter, given both the nature and complexity of the product offered and the limited number of open season participants anticipated, the process should allow for direct negotiations and discussions with shortlisted participants, (with shortlisting guidelines submitted to the Regulator for approval), subject to a broad requirement for the LNG System Operator to behave in a non-discriminatory manner.

We would like to see that the publishing or approval of tariffs is not required and in order to ensure transparency, we would suggest a methodology whereby Ofgem can approve award of capacity to the selected Terminal user. We feel this would prove a more practical approach whilst supporting the intentions of the Third Package.

Similarly for non 'open season' capacity sales we support the principle that market based arrangements are in general the most appropriate to determine tariffs as referenced in 2.30 of the Consultation document. However we must note, and particularly in relation to new facilities, expected revenue from 'auction' and short term sales is likely to be a significant component of future revenue streams and will impact investment decisions. Lack of clarity or potential Ofgem intervention in key commercial arrangements (such as setting of auction reserve prices and pricing and conditions attached to the sale of unsold capacity), could potentially have a 'chilling' impact on investment. To reduce uncertainty we recommend that Ofgem set out more clearly its approach to these issues. We also note the variety of LNG facilities in operation in the GB market and the significant potential for new entry and suggest in such circumstances a 'light touch' form of regulation is appropriate.

More generally we believe uncertainty surrounding both tariff approval and publishing of tariffs would prove difficult for both potential investors and market participants. It would also leave rTPA LNG storage facilities at a commercial disadvantage when compared to exempt LNG storage facilities in GB, and is not consistent with the concept of a level playing field between incumbents and new entrants. We believe that potential investors and market participants that operate under either an auction or open season based mechanism require certainty that the principles agreed now will not alter for future reallocations of capacity and that Ofgem will not 'revisit' its policy position.

In addition, we note for the reasons set out in our answer to question 2, that at times 'flexibility' in commercial arrangements may be required. Auctions, by their nature, require standardised products and timescales and while this may generally be appropriate, at times this may be too commercially limiting



and in fact, may lead to a position of capacity being un-contracted. It is therefore recommended that LNG System Operators have the flexibility to enter into more bespoke bilateral agreements if deemed commercially appropriate. We note that such arrangements should be regarded as 'exceptional' and the onus to demonstrate non-discrimination and commercial need should lie with the LNG System Operator.

Finally, we note that GGPOS states that:

Once a final investment decision has been taken and binding agreements have been signed, the following information should be made public unless the relevant regulatory authority confirms that this information is commercially sensitive:

- the investment decision made by the project sponsor (complete design and capacity of the project, timetable for work and estimated in-service date);
- tariff and contract duration.

Port Meridian would like to better understand Ofgem's interpretation of GGPOS and specifically its view as to whether the terms of an agreement under an open season process, as proposed above, should and would be seen as commercially sensitive. Again, we believe that publishing commercial terms after binding agreements have been signed would prove difficult for both potential investors and market participants.

Question 4: Can the Use It or Lose It (UIOLI) arrangements implemented by the LNG system operators in GB be improved to ensure greater utilisation? What lessons can we learn from current models to encourage greater use under an rTPA regime?

We believe that existing LNG operators are best placed to answer these questions based on their operational experience. We do believe that going forward, and to encourage activity on both UIOLI and secondary trading markets, there should be consistency of approach with respect to capacity release mechanisms. This is to ensure that exempt facilities do not enjoy preferential terms as a consequence of the requirement by rTPA LNG System Operators to publish tariffs.

Question 5: Do market participants have any views on why secondary capacity trading has been used so little? Is access to unused capacity happening through mechanisms other than secondary trading and/or UOLI arrangements?

As for Question 4, we believe that existing LNG System Operators are best placed to answer these questions based on their operational experience.

Question 6: Are there any mechanisms that could be established to facilitate greater use of secondary trading arrangements?

Understanding the reasons why both UIOLI and secondary capacity trading are rarely used is a first step in identifying how to improve these markets. As with any traded market, transparency and ease of access are key components as is liquidity arising from a match of buyers and sellers. These factors should underpin any secondary market as should an understanding of what it is customers actually require (i.e. an unbundled capacity market or a bundled market).

CHAPTER: Three

Question 7: In addition to the information detailed in this chapter, is there any further information that LNG system operators should make publicly available?

We again acknowledge that existing LNG System Operators will have contributions to make in this area based on their operational experience. We would add that it may be beneficial to consider a standard format to the way information is presented to the market. This should help transparency; ease comparison between LNG System Operators and in turn facilitate use of the secondary markets. However, it is important that a reasonable balance is achieved. Information should encourage transparency and liquidity in a market but the obligation on the LNG System Operators to provide information should not be overly cumbersome such that the obligation acts as a barrier to entry.



HÖEGH LNG

CHAPTER: Four



Question 8: To what extent do you consider that market participants will be able to observe non-compliance with the legislative requirements by an LNG system operator?

A primary objective is to ensure that all available capacities are released to the market. Publishing information about maximum technical capacities, contracted capacities and available capacities should be a first step to realising this objective. The next is to ensure that mechanisms are in place to facilitate the release of unused capacity to the market via UIOLI or secondary traded markets. We trust that Ofgem will draw upon its experience of GB gas storage markets to inform its decision on required information.

Question 9: Taking into account your answer to question 8, what (if any) additional information to that set out in the previous chapter should LNG system operators provide to the Authority?

We have no additional views to add in this area.

Please do not hesitate to contact us if you would like us to clarify in more detail:

Port Meridian Energy Limited
PMEL is an HLNG subsidiary
5 Young Street, London W8 5EF, United Kingdom

Contact person: Nils Jakob Hasle
Phone +4797557459
Email: nils.jakob.hasle@hoeghlng.com
www.portmeridian.com

Port Meridian thanks Ofgem again for the opportunity to provide comments on this Consultation and trust Ofgem will take into consideration views expressed.

Yours faithfully,
for Port Meridian Energy Limited

Nils Jakob Hasle
Project Manager