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Dear Francesca

Consultation on the regulated Third Party Access (rTPA) regime for Liquefied Natural Gas (LNG) facilities in Great Britain (GB)

Thank you for providing SSE with the opportunity to comment on the above consultation. We have detailed our answers to the consultation questions in the attached annex. However, we would like to take the opportunity to also reiterate our high level views.

Gold plating Third Package requirements

SSE fundamentally opposes the introduction of any unnecessary additional regulation. We are concerned that some of the proposed requirements Ofgem have put forward in this Consultation document go beyond the requirements laid out in the Third Package. Imposing requirements upon GB LNG system operators (SOs) that go beyond those faced by other European LNG SOs is likely to lead to market distortion and consequently a hiatus in GB LNG investment. Our two areas of concern are the primary allocation mechanism and reserve pricing proposals. We have provided further details of our concerns in our response to the consultation questions.

Linkage with nTPA Storage facility Guidance document

We believe that, where appropriate, the Guidance provided for rTPA LNG SOs should reflect the Guidance provided for nTPA storage facilities, as doing so will avoid the creation of an overly complex regulatory regime.

We hope you have found our comments helpful. If you would like to discuss any of the points we have raised in further detail, please do not hesitate to contact me.

Yours sincerely

Claire Basil-Rathey
Regulation

Annex: Consultation Questions

- 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?**

We believe that the establishment of or fundamental alteration to main commercial conditions should require full industry consultation. However, the extent to which rTPA LNG SOs are required to consult when developing or making changes to their main commercial conditions should depend upon the extent of changes introduced. Minor changes should only require customer notification.

The period and form of consultation should be the same as that required by the nTPA storage facility Guidance document.

- 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.**

As with any other business operator, rTPA LNG SOs have an inherent incentive to maximise the sale of services. Consequently we would expect an SO to only alter existing services or offer new services if the market had already signalled that the new or altered services were demanded. Therefore, we believe nothing can be gained from requiring rTPA LNG SOs to formally consult or to formally test the market.

- 3. Do market participants have any concerns with our preliminary views on capacity allocation?**

As the Third Package does not stipulate a need for a specific capacity allocation process or for a reserve pricing methodology, we do not believe it is appropriate for Ofgem to introduce these unnecessary requirements. Imposing requirements upon GB LNG SOs that go beyond those faced by other European LNG SOs is wholly inappropriate as it is likely to distort the EU market and create a hiatus in investment in GB.

Please note that caveat 20 on page 13 of the Consultation document refers to the incorrect Article in the Gas Regulation. The Article it should refer to is Article 15(1), not Article 13(1).

- 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?**

At this time, we have no suggestions for improvement.

- 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?**

We believe that LNG secondary capacity trading in GB has been used so little due to the market pricing conditions and structural conditions of the LNG market.

Where prices in the LNG market are much lower than NBP/European prices, primary capacity holders are fully incentivised to make full use of their capacity for contractual cargoes and spot cargoes that they procure themselves. As such, this does not leave many opportunities for secondary capacity purchasers to make use of capacity. Where prices elsewhere in the world are much higher than NBP/Europe, there is little economic motivation for purchase of secondary capacity and few opportunities to source cargoes for delivery to the UK.

Structurally, LNG producers are mostly reluctant to sell cargoes to buyers who do not have firm re-gasification capacity to take physical delivery of the LNG. This is partly down to a desire to deter buyers from diverting cargoes to higher priced markets, but there are also technical and logistic reasons behind a lack of willingness to sell to non-physical players in the market. For example, in the event that the trading purchaser cannot land the cargo and return the ship within a certain timetable, the producer is faced with finding alternate shipping to load its production. This could be very difficult in the current tight shipping market and would be costly if the producer could only find a warm ship (as it would effectively 'waste' LNG in cooling the ship's tanks to accept the balance of the cargo). A similar problem would also arise if a producer sold on its re-gasification capacity to another player. This capacity can be regarded as a 'back stop' or insurance for the producer against not being able to find an alternative (and nearby) destination for a cargo. If the producer does not have access to a slot

at its own capacity, it might be forced to leave a tanker idling till a slot became available or pay a very high price for an alternative berth. Again, the producer does not want to risk not being able to get his boat back to the jetty to receive its next cargo.

There is also a relatively limited pool of potential companies that would be willing to buy secondary capacity in GB i.e. those with sufficient credit strength to pay for the capacity, the LNG cargo and trade on the large volumes of physical gas at the NBP (and who do not already have primary capacity).

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

The LNG market is constantly developing and maturing. In future, many of the factors listed in our response to question 5 may reduce and this would facilitate much greater use of secondary capacity.

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

At this time, we have no suggestions for the provision of additional information. We believe that the information currently provided is sufficient.

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?

We believe that even if Ofgem do not introduce a requirement for a specific capacity allocation process or for a reserve pricing methodology, any non-compliance with the requirement laid out in the Gas Regulation will still be highly visible to the market due to the transparent nature of the existing market.

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?

At this time, we have no suggestions for the provision of additional information. We believe that the information currently provided is sufficient.