Suppliers, shippers, transporters, customer representatives, storage facility owners and operators and other interested parties

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Open letter: Amendment to the working volume at Stublach Storage Facility Exemption Order

As the owner of the Stublach facility, Storengy UK Limited ("Storengy") has informed Ofgem that, upon completion of Phase 1 of the project in 2015, the working volume available will be 2,200GWh as opposed to the 1,500GWh recorded on the face of their exemption order. There is no change in the injectability and deliverability rates.

Pursuant to Condition D.5 of the exemption order Ofgem, with the consent of Storengy, has decided to amend the exemption order to reflect the change in space, by amending Schedules A and B of the order.

On 18 December 2009 Ofgem published its final decision in relation to Storengy's application for an exemption from section 19B of the Gas Act 1986 for the proposed Stublach storage facility[1]. As set out in that letter, after due consideration of the exemption criteria and the responses to the October 2009 consultation, Ofgem came to the view that the relevant criteria were met by the Storengy and granted an exemption order ('the exemption order').

Exemption Order and Legislative requirements

Since the grant of the exemption order the provisions of the Gas Act relating to Minor Facilities Exemptions has been amended, Section 8S(2) of the Gas Act now states:

> *"The Authority must give a minor facility exemption in respect of a facility where it is satisfied that use of the facility by other persons is not technically or economically necessary for the operation of an efficient gas market".*

Section 8S (5) of the Gas Act states:

> *"A minor facility exemption may be revoked –*
> *(a) in accordance with provisions contained in it*
> *(b) at any other time, if the Authority considers that the condition in subsection (2) is no longer met."*

The exemption order states that the Authority may revoke the exemption where, amongst other things, the Authority considers that the use of the facility by other persons is necessary for the operation of an economically efficient gas market. As described in our

[1] http://www.ofgem.gov.uk/Markets/WhlMkts/CompandEff/TPAccess/Documents1/Storengy_Decision_Doc_FINAL%20_2_.pdf

Minor Facilities Exemptions Guidance[2], the criteria for revocation given in the exemption order and in the Gas Act are consistent; in other words, a key test for revocation in both the exemption order and in the Gas Act is whether use of the facility by other persons is technically or economically necessary for the operation of an efficient gas market.

Ofgem's View

After due consideration, our view is that the change in Storengy facility's characteristics are not grounds at this stage for revocation of the exemption order, the increase in the volume of space would not have led to a different conclusion. However, we note that the current exemption order would not cover all of the proposed working volume and have decided, with the consent of Storengy, to amend the Exemption Order at Stublach Storage Facility to reflect the change in space recorded in Schedules A and B of the exemption order (see Annex).

Ofgem may still revoke the exemption order under certain conditions or if we consider that the facility is technically or economically necessary for the operation of an efficient gas market; therefore we continue to welcome information from any interested party on this matter.

Please feel free to contact Andrew Pester (andrew.pester@ofgem.gov.uk) or myself should you have any questions regarding the content of this letter.

Yours sincerely,

Pamela Taylor
Associate Partner,
Wholesale Markets

[2] http://www.ofgem.gov.uk/Markets/WhlMkts/CompandEff/TPAccess/Documents1/Storage%20Exemptions%20Open%20Letter%2009%20_For%20publication_.pdf

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GAS ACT 1986

SECTION 19A

EXEMPTION

Pursuant to sub-section 19A(6)(a) of the Gas Act 1986 (the "Act"), the Gas and Electricity Markets Authority hereby gives to Storengy UK Limited, as a person who expects to be an owner of a storage facility, an exemption from the application of section 19B of the Act, in respect of Phase 1 of the Stublach storage facility located in Cheshire, North-West England, subject to the attached Schedule.

Ian Marlee

Partner, Trading Arrangements
Authorised in that behalf by the Gas and Electricity Markets Authority

18 December 2009

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SCHEDULE
PERIOD, CONDITIONS, AND REVOCATION OF EXEMPTION

A. Interpretation and Definitions

In this exemption:

"the Authority"	means the Gas and Electricity Markets Authority established by section 1(1) of the Utilities Act 2000, as amended from time to time
"the Act"	means the Gas Act 1986, as amended from time to time
"the facility"	means the Stublach gas storage facility located in Cheshire, North-West England, being a capacity of 2,200GWh
"facility owner"	means Storengy UK Limited in its capacity as owner of the facility
"facility operator"	means Storengy UK Limited in its capacity as operator of the facility

B. Full description of the storage facility to which this exemption relates

On completion of Phase 1, the facility will provide 2,200GWh of space, a maximum injection rate of 175GWh/day and 175GWh/day of deliverability. This deliverability rate is the maximum which can be achieved when the facility is full[3].

C. Period

Subject to section E below, and pursuant to section 19A(3)(a) of the Act, this exemption shall come into effect on the date that it is issued and will continue until it is revoked in accordance with Section E.

D. Conditions

Pursuant to sub-section 19A(3)(b) of the Act, this exemption is made subject to the following conditions:

1. The material provided by the facility owner to the Authority in respect of this exemption is accurate in all material respects.

2. The facility owner furnishes the Authority in such manner and at such times as the Authority may reasonably require, with such information as the Authority may reasonably require, or as may be necessary, for the purpose of:

(a) performing the functions assigned to it by or under the Act, the Utilities Act 2000, or the Energy Act 2004, each as amended from time to time; or

(b) monitoring the operation of this exemption.

3. The facility owner complies with any direction given by the Authority (after the Authority has consulted the relevant gas transporter and, where relevant, the Health and Safety Executive) to supply to the relevant gas transporter such information as may be specified or described in the direction -

(a) at such times, in such form and such manner; and

(b) in respect of such periods, as may be so specified or described.

[3] The description of the storage space to which this exemption order applies was amended with the consent of the facility owner pursuant to Condition 5 on 27/02/2013.

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Where the facility owner is prevented from complying with such a direction by a matter beyond its control, it shall not be treated as having contravened the condition specified in this paragraph.

In this condition:

"information"	means information relating to the operation of the pipe-line system which is operated by a relevant gas transporter
"relevant gas transporter"	means any holder of a gas transporter licence under section 7 of the Act owning a transportation system within Great Britain to which the facility is connected or with whom the facility operator interfaces with as a system operator

4. Should any of the grounds for revocation arise under section E of this exemption, the Authority may, with the consent of the facility owner, amend this exemption rather than revoke the exemption.

5. The Authority may, with the consent of the facility owner, amend this exemption.

6. This exemption is transferable to another facility owner where the Authority has given its written consent to such a transfer. For the avoidance of doubt, all of the conditions contained in this exemption order continue unaffected in respect of any facility owner to whom this exemption order may be transferred (and as if the transferee was substituted in the definition of "facility" and "facility owner").

E. Revocation

Pursuant to sub-section 19A(4) of the Act, this exemption may be revoked in the following circumstances:

1. This exemption may be revoked by the Authority by giving a notice of revocation to the facility owner not less than four months before the coming into force of the revocation in any of the following circumstances:

(a) where:

(i) the Authority considers that the use of the facility by other persons is necessary for the operation of an economically efficient gas market;

(ii) the facility owner has a receiver (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency Act 1986, as amended from time to time) of the whole or any material part of its assets or undertaking appointed;

(iii) the facility owner has entered administration under section 8 of and Schedule B1 to the Insolvency Act 1986;

(iv) the facility owner is found to be in breach of any national or European competition laws, such breach relating to the facility; or

(b) the facility owner has failed to comply with a request for information issued by the Authority under paragraph D2 above and the Authority has written to the facility owner stating that the request has not been complied with and giving the facility owner notice that if the request for information remains outstanding past the period specified in the notice, the exemption may be revoked; or

(c) the facility owner has failed to comply with a direction issued by the Authority under paragraph D3 above and the Authority has written to the facility owner stating that the direction has not been complied with and giving the facility owner notice that if the direction remains outstanding past the period specified in the notice, the exemption may be revoked.

2. This exemption may be revoked by the Authority with the consent of the facility owner.

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