

## **Ofgem consultation- Response to Wholesale power market liquidity – final proposals for a ‘secure and promote’ licence condition**

### *Submission by GDF SUEZ Energy UK-Europe*

#### **(I) About GDF Suez Energy International**

GDF SUEZ Energy International (formerly known as International Power) is responsible for GDF SUEZ’s energy activities in 30 countries across five regions worldwide (Latin America; North America; South Asia, Middle East & Africa; UK-Europe, Asia-Pacific). Together with power generation, we also active in closely linked businesses including downstream LNG, gas distribution, desalination and retail. GDF SUEZ Energy International has a strong presence in its markets with 77 GW gross capacity in operation and a significant programme of 8 GW gross capacity of projects under construction as at 31 December 2012.

The UK-Europe region (GDF SUEZ Energy UK-Europe) has 8.6 GW net ownership capacity in operation, which includes over 5.8 GW of plant in the UK market made up of a mixed portfolio of assets – coal, gas, CHP, wind, a large OCGT diesel plant, and the UK’s foremost pumped storage facility. Several of these assets are owned and operated in partnership with Mitsui & Co.

The generation assets represent just under 9% of the UK’s installed capacity, making GDF SUEZ Energy UK-Europe the country’s largest independent power producer. The company also has a retail supply business and a significant gas supply business in the UK, both serving the Industrial and Commercial sector.

#### **(II) Summary key points**

- **GDF SUEZ Energy UK-Europe (GDF SUEZ) supports the market maker proposals as a way of ensuring that there are opportunities to buy or sell down the forward curve with reasonable bid-offer spreads.**
- **GDF SUEZ supports the more detailed proposals for maximum bid offer spreads and products. We believe it is important to retain these specific proposals in the market making obligation.**
- **GDF SUEZ acknowledges that obligated parties may wish to carry out market making activities on a cleared exchange. However, we believe that it is very important that, some of the market making activity is carried out in the OTC bilateral market where over 95% of UK power trades currently take place.**

- **GDF SUEZ does not agree with the proposal to add GDF SUEZ as an obligated party under the Supplier Market Access (SMA) rules. Given it is in the domestic market where competition is lacking, we question the need to extend this obligation to market participants who do not operate in this area of the supply market.**
- **Extending the number of SMA obligated parties beyond the 6 Vertically Integrated companies will increase the overall cost for the industry - we are not convinced that there will be any incremental benefit to small suppliers of this extension.**
- **The proposals do not address the issue of credit. GDF SUEZ has tried to enter into generic trading agreements with smaller suppliers; where a counterparty is un-rated, we do require adherence to our credit policies and seek credit support. Agreements have not been signed because un-rated parties would prefer to trade on an unsecured basis. GDF SUEZ considers that SMA obligation may not deliver what is intended because of this ongoing and unresolved issue.**

### (III) Responses to consultation questions

#### Chapter 1

##### Question 1: Do you agree with our updated assessment of the wholesale market?

1. GDF SUEZ does not disagree with the data presented in the report but would like to raise some points with regards to its interpretation.
2. With regards to the overall churn rate, we see the low levels of activity by non-physical market participants as the key issue. Physical players undertaking primarily hedging activity should not be expected to deliver very high churn rates as their activity is about trading as required to close off positions and reduce risk rather trading as much as possible to take on positions to target trading profits.
3. What can be done to address this is to seek to minimise the barriers for potential new entrants. GDF SUEZ sees the FOA led project to migrate OTC Physical trading from the EFA to the Gregorian Calendar as a positive step in doing this. We also see the development of exchange traded UK power products as having the potential to make it easier for new entrants to participate but acknowledge the significant workload required for existing participants, including ourselves, to migrate trading activities into these new products. In addition, the low clean spark spreads in the market and the strong correlation between UK Power and UK Gas have reduced the appetite for non-physical firms to trade UK Power in addition to UK Gas.

4. With regards to the availability of products to support hedging, GDF SUEZ would like to see more liquidity in non-baseload products further down the forward curve but feel that we must be realistic about what is achievable. As power is a half hourly settled product there are thousands of potential forward products that firms may wish to trade. Trading will always tend to be focused on the standard baseload products with liquidity in other products only picking up with there is a natural requirement for a number of participants. We do believe that efforts should be made to increase liquidity in peak products down the forward curve.
5. While the data presented on page 45 of the consultation shows a decline in longer term peak trading we note that the proportions are very low for all years and our experience is that peak liquidity has been no worse recently than it has been in recent years. We also note that on page 29 it is acknowledged that “an increase in traded volumes may not be necessary” and that “as long as all companies have the opportunity to trade and robust price information is available in the market along the curve, the market will be functioning sufficiently well to support competition”. We fully support this way of thinking and note that while churn rates may not have improved, the Bid-Offer spreads are getting tighter and this should be the key metric by which the ability to trade is assessed.
6. GDF SUEZ continues to believe that the main barrier to trading for smaller firms is access to credit. Due to the potential for market price movements to create large mark to market credit exposures on fixed price forward trades, all firms must think carefully about whom they want to trade with and how the associated credit risks are to be managed. Unless Ofgem forces parties to take on credit risks outside of their internal credit policy (which would be unacceptable) then we do not see how this barrier can be overcome.
7. A further initiative that we would support would be the creation of an industry wide monthly liquidity report that pulls together all trade volume data from all trading venues. This could be used to develop a consistent and widely understood picture of market liquidity. The FOA

Power Trading Committee have been trying to establish such a report and any support that Ofgem could give in helping with the delivery of this would be welcome.

8. In summary, while we acknowledge that market liquidity has not improved significantly and that higher levels of liquidity would be good for GDF SUEZ and the wider market, the current levels of liquidity are sufficient to allow us to effectively manage our wholesale price risk.

**Question 2: Do you agree with our conclusion that we should intervene in the market in the form of the ‘Secure and Promote’ licence condition set out in this document?**

9. We are supportive of the market maker proposals as a way of ensuring that there are opportunities to buy or sell down the forward curve with reasonable Bid-Offer spreads. This is a tried and tested

approach to stimulating activity in markets and is far more aligned with a continuously traded market than the previous Mandatory Auction proposals. We have reservations about the effectiveness of the SMA proposals and provide further detail in responses to questions 4 and 5.

## **Chapter two**

### **Question 3: Do you agree with our proposed legal approach to S&P?**

10. The S&P proposals will be a factor in investment decisions and firms will seek upfront clarity on the regulatory impact of any investment decisions they are taking. A supplier for example needs to know if they will become an obligated party before they invest in a generation asset. A generator needs to know if they will become an obligated party before they start up a supply business. The existing obligated parties need to know if their obligations will fall away should their generation business and/or domestic retail business reduce in scale. We believe that Ofgem needs to provide further clarity on the criteria that will dictate which licensees are subject to these licence conditions.
11. Adherence to the licence condition, and in particular the SMA rules, will be open to interpretation. Ofgem should consult on the guidance for the licence condition as well as the wording of the condition itself to minimise any subjectivity in the assessing compliance.

### **Question 4: Do you agree with our proposals for who should face the obligations under S&P?**

12. We agree with the Ofgem’s rationale to target the market maker proposals onto the ‘big 6’. As noted by Ofgem, this group has a ready route to market through their domestic supply base with two thirds of domestic consumers having never switched supplier. This is in contrast to the highly contested I&C market in which GDF SUEZ operates.
13. We do question the requirement for six market makers all operating simultaneously. We believe that it is likely that all six will post the same bid and offer prices at the same time, in which case having multiple market makers will not improve the prices that are available. It may be more cost effective for the industry as a whole to reduce the number of obligated parties under the market maker proposals as in our view the incremental benefit of adding the fourth, fifth or sixth market maker would be very low.
14. We do not agree with the proposal to add GDF SUEZ and Drax as obligated parties under the SMA rules. We believe that it is in the domestic market where competition is lacking and if Ofgem wants to take steps to help encourage new domestic suppliers then it should be the existing domestic suppliers that change their behaviour.

15. We have no strategic incentive not to deal with small domestic suppliers and have entered into wide ranging discussions with a number of them both recently and in the past to try to facilitate wholesale market access. The barrier to us achieving this has always been credit.
16. We question the cost-benefit of extending the obligation beyond the ‘big 6’. We note from the impact assessment that that 100% of the set-up costs and 58% of the ongoing costs associated with the SMA are not linked to the volume traded. If small suppliers can access fair market prices under reasonable credit terms from six market participants then we question whether there is any increased benefit to them by extending this to eight market participants. The costs of meeting the proposed obligations are not insignificant and if these obligations are to be applied to any “large” generator then they could become a further barrier to investment in generating capacity by parties outside of the ‘big 6’.
17. If Ofgem is to impose the SMA obligations then GDF SUEZ believes that the SMA rules should apply to the ‘big 6’ only.

### Chapter three

#### **Question 5: Do you have any views on our final proposals for the Supplier Market Access rules, particularly those aspects listed under ‘key outstanding design questions’?**

18. We have provided comments on each element of the rules in turn.

A1 – Transparency - We agree with the requirements listed.

A2 – Scope – Ofgem should provide more detail on how it defines ‘eligible suppliers’. Obligated parties should not be required to respond to speculative enquiries. Requests for trading agreement should be limited to suppliers that have a supply licence and are a BSC Party.

A3 Response to trading requests – Ofgem proposes that Licensees must acknowledge a written request within 2 working days stating whether the necessary information has been received or specifying the further information that is required. GDF SUEZ regards this 2 day limit as insufficient. The list of information that we would require from a potential counterparty is as follows:

- 1) Company Name and number (evidenced by Certificate of Incorporation)
- 2) Registered Office and Billing Address
- 3) Full commercial contact details
- 4) Full Company Secretary contact details
- 5) Details of directors and /or responsible members
- 6) Two years’ worth of most recent audited company Accounts
- 7) VAT number (evidenced by VAT certificate)
- 8) Ownership structure i.e. position within a larger group, name of affiliates etc.

- 9) Parent company name if any and Parent Company details as in 2)-5) above
- 10) Any credit support available such as Letter of Credit (enclose format and state issuing bank), Parent Company Guarantee.
- 11) Two years’ worth of most recent audited company accounts for the parent if parental support is to be provided.
- 12) Elexon Trading Account ID
- 13) Evidence of a supply licence

Two working days would be insufficient to undertake a detailed check of the information provided, establish whether any information was missing from the above list and also specify the further information that was required.

GDF suggests that obligated parties are required to acknowledge that a trading agreement has been requested within 2 working days but should be allowed up to 10 working days to establish whether the correct information has been provided. In addition, there should be the potential for these requirements to be relaxed further in the event that there is a sudden influx of trading requests, which could for example occur on the day the licence condition comes into force.

A4 – Credit and Collateral - The most complex area of the SMA proposals relates element A4 and the issue of credit. GDF SUEZ has tried to enter into generic trading agreements with smaller suppliers. Whilst we do actively seek to establish these trading agreements, where a counterparty is un-rated, we do require adherence to our credit policies and seek credit support. In such circumstances, GDF SUEZ’s credit requirements take the form of fixed/periodically reviewed cash collateral, or a bank letter of credit or cash margining. In the case of the first two, if the exposure does, or in our opinion is likely to exceed the level of support provided, then we would no longer trade with the counterparty unless additional support was provided.

The sticking point in all of these discussions has been the credit arrangements. We do acknowledge that credit should not be used as a blanket excuse by any firm not to deal with small suppliers. The SMA proposals may at least provide some more clarity on why credit is being withheld, what smaller firms may need to do to alleviate this and potentially encourage innovation in credit approaches.

We are pleased to note that Ofgem will not become involved in fine judgements about whether credit arrangements are objectively appropriate (paragraph 3.19 of the consultation). Assessing the credit worthiness of another firm is a judgement call that is far from pure science. The fact that credit rating agencies continued to class Lehman Brothers and AIG as investment grade right up to their eventual collapse highlights this acutely.

We strongly agree that companies should continue to be allowed to pursue their own credit policies in complying with the SMA proposals. If one firm views another as a credit risk then it has to be wholly their decision as to the terms under which they would be willing do business. In retaining this

discretion, we question whether the SMA obligation will increase small suppliers’ access to the wholesale markets.

We see a significant risk that the subjective nature of assessing credit risk leads to raft of claims from small suppliers of unfair credit terms being offered by Obligated Parties with no real prospect of being able to determine what “fair” really looks like.

GDF SUEZ considers that SMA obligation may not deliver what is intended because of this ongoing and unresolved issue of credit. Given the impact assessment that the obligated parties will as a best estimate collectively incur set up costs of just over £2m and on-going costs of over £4.5m per year (including the reporting requirements), if credit does prove consistently to be the limiting factor, we question the rationale of imposing such an obligation on any of the companies listed.

A5 – Clip Size – Regardless of the clip size, we have concerns that we could find ourselves obligated to trade volumes that we either do not have on our book or cannot back out in the market within the three hour limit. Without concessions, then to fulfil the requirement, we would have to trade on a speculative basis. To address this, we offer two solutions:

- 1) the obligation falls away if we neither have the volume on our book and are unable to fulfil the request within the three hour limit for responding to a trade; or
- 2) we have until the later of three hours or the end of the next market making window (if Ofgem adopts windows rather than 50% of market opening time for the market maker) to fulfil the request.

Setting aside this limitation of the SMA proposals, with regards to element A5 we feel that it would be preferable for a 1MW clip minimum be applied to align with minimum trading on the regulated exchanges. On any small clip size the obligated parties should be able to reflect the additional risk associated with having to hold the position in the quoted prices (as the trade could not be directly backed out in the market). More favourable prices could be offered for standard clips of 5MW where the obligated party could more readily back out of position in the market.

If Ofgem wishes to retain the 0.5MW clip size then any loss on trading this non standard clip size must be allowed to be reflected in the fees added to the market reflective price.

A6 – Product Range - With regards to the product list in element A6, we are supportive that the obligations under the SMA align with those under the MM. The longer dated products will be the most challenging due to increased credit risk and lower natural liquidity levels but it is Season+3 and Season+4 where the requirement for liquidity improvement is greatest.

A7 – Fair and Transparent Pricing - A more difficult aspect will be element A7 where quotes must be “reflective of the market price”. We feel that the rules need to be more explicit and would propose that obligated parties must be allowed to base quoted prices to sell power on offer prices currently in the market that are available to the obligated party to trade (i.e. the obligated party has a GTMA with the party quoting the price in the market).

We have specified the offer price because it is likely that the obligated party will have to buy back the product it is providing to the supplier in the wholesale market. This is likely to involve crossing the bid/offer spread, especially given the small clip sizes required. We feel that more detailed guidance on the types of trading fees and risk premiums that can be passed onto the small supplier should be provided to ensure there is a clear and common understanding of what constitutes an acceptable quote by an obligated party to an eligible small supplier.

If the bid-offer spread is very wide it could be argued that the offer does not reflect “fair value” but if the market maker obligation is in place then this will no longer be an issue. If the small supplier wishes to buy with reference to a closing reference price published by a PRA then again the obligated parties must be allowed to quote at the published offer price.

As noted above, obligated parties should be allowed to factor in the risk premium of trading in non standard clip sizes.

**Question 6: Are there any further areas that these rules should cover?**

19. If the obligation is to be imposed, there should be standards applied to those companies wishing to benefit from Supplier Market Access. These companies will be contacting busy trading desks and if there are several GTMA relationships set up, the handling of calls could be extremely labour intensive. A concern will be that supplier might telephone the trading desk repeatedly in order to check current market prices without necessarily intending to contract. There should be an obligation on the supplier to avail itself of current price information and to keep contacts with the obligated parties at a reasonable level.
20. Fair and transparent pricing will be a subjective assessment. We have concerns that Ofgem could end up having to take decisions on multiple claims from small supplier of unfair treatment and would then have undertake investigations and take decisions on the “reasonableness” of the prices and credit terms offered by obligated parties. This could quickly become very costly for the industry and have a material negative impact the cost benefit payoff of the intervention. Further detail on how Ofgem would deal with any such claims would be welcome. It would also be helpful if Ofgem introduced an informal way to highlight to obligated parties where it as concerns about breaches of the S&P proposals as a precursor to a more formal investigation.



**Chapter four****Question 7: Do you have any comments on our proposed detailed design for the market making obligation, particularly those listed under ‘key outstanding design questions’?**

21. We are generally supportive of the concept of introducing market making to UK Power as soon as possible and with most of the detailed rules put forward. We recognise that it may take time for the obligated parties to comply and would accept some phasing of the obligation provided that the delay to delivering the full market making requirement in all the products listed in Ofgem’s proposals was less than 6 months. It is the longer term products and peak products where liquidity needs greatest stimulation and so any phasing should not materially delay market making in these products.
22. We believe that it is important that the required bid offer spread is tight. This is in order to reduce transaction costs for those parties wanting to trade and to deliver increased clarity on the true market value when setting reference prices for the SMA part of the licence condition and for CfD FiTs. We are therefore supportive of this aspect of Ofgem’s proposals. However, if there was a compelling argument that increasing the maximum bid offer spread would materially reduce the costs incurred by the obligated parties then we acknowledge that a small increase of 0.1% or 0.2% may deliver a more favourable cost benefit trade off for the industry. We would not support a widening of the bid offer spread beyond this level.
23. If the Obligated Parties view the Ofgem market maker proposals as being too onerous we would prefer to see reductions in the amount of time the market maker operates or reductions in the clip sizes that must be offered or a cap on the total position that the market maker has to take or the implementation of fast market rules. We are fully aware that there is a trade off between cost and benefit but firmly believe that every effort should be made to ensure that bid offer spread requirements remain tight, particularly during the period when reference prices are being set. This will ensure that firms are able to replicate reference prices without having to cross a wide spread and incur unreasonable transaction costs.
24. In terms of the product list, baseload power is not a particularly effective hedging instrument for many generators and suppliers. GDF SUEZ therefore strongly supports the inclusion of peak products in later seasons in the product list as this is an area of the market where liquidity is currently very poor.
25. The areas where we believe further thought is required are as follows.
  - **Number of Market Makers** – We question the requirement for six market makers and would support a reduction in the number of market makers in order to reduce the overall cost to the industry. We have provided further thoughts in the response to Q9.

We do not feel it is necessary to increase the severity of the requirements on the market maker if a firm is carrying out the obligation on behalf of more than one obligated party. The standard requirements should be set to deliver what the market needs.

- **Availability** – As UK Power trades primarily as bilateral OTC trades agreed through a broker, there are no formal market opening and closing times. We support prices being posted but believe that to minimise costs, it would be better to determine specific windows in which the market maker had to operate rather than a generic “50% of the market opening time”.

In addition, if part of the objective is to improve end of day reference prices then it would make sense to ensure that the market makers are active at the end of the day when the price assessment is being made. If the market making window is limited then this reduces the cost of delivering the service and if smaller players know when the market maker will be active they can seek to deal at this time rather than having to continuously monitor the market. These fixed windows would also reduce the burden of monitoring compliance with the obligations. Therefore, we would propose that market makers be active for 2 sessions on each trading day from, for example, 10:00 to 11:00 and again from 15:30 to 16:30.

- **Cap on trade activity** – A key risk for the market maker is that they end up building a very large position in a single direction (i.e. their offer keeps on getting lifted resulting in a large short position). In order to limit this, we would be comfortable if a daily rolling net position cap of c. 50MW was applied to each market maker. This would mean that if a market maker has made net sales (or purchases) of 50MW of any of product on any trading day they would not be obliged to post a follow on offer (or bid) in that specific product. The rules around how the cap would operate would need careful consideration to ensure that it was only applied during extreme conditions. In particular, consideration needs to be given as to whether trade volume where the market maker was the aggressor (i.e. the market maker hits a bid or lifts an offer) or where the market maker agrees to increase deal volume above the mandated 10MW volume should count towards the cap. The cap is there to protect obligated parties against trading volume that they do not naturally wish to transact and so obligations should not fall away if the obligated parties elect to trade.

To manage extreme market volatility we would support the inclusion of ‘fast market rules’ in the market making arrangements to allow the market maker to step away from its obligation during periods of very high market volatility. Again these rules will need to be carefully drafted to ensure that they only apply during extreme conditions.

- **Qualifying Platforms** – At present, over 95% of UK power trades are done as OTC physical trades on the Trayport Broker platform. As this is where trading currently occurs we would propose that Ofgem take steps to ensure that at least some of the market activity occurs on this platform.

Consideration needs to be given as to whether market making in physical futures or financial futures products on cleared exchanges would be acceptable. Many physical market participants, including GDF SUEZ, do not have the capability to trade these products. Setting up this capability would require major changes to our business including new business processes, accounting treatments, ETRM systems and credit/cash management. This would have significant cost implications for us. In addition, the collateral requirements and collateral volatility associated with trading on exchanges would be far greater for non-vertical firms that need to hold large net buy or sell volumes to hedge their physical position: a move to fulfilling the obligation through exchange based trading would not suit GDF SUEZ and may not suit many other independent suppliers and generators.

We have some concerns about the proposed qualifying rule that a platform must be accessible to 10 or more generation and/or supply licensees. It is possible that an exchange could meet these requirements through a number of small, relatively inactive market participants. This could lead to the market making activity occurring on a platform where very little trading actually occurs. We would propose that the qualifying platform rule should be extended such that a certain volume must be being traded on the platform. This would demonstrate that not only can firms theoretically access the platform but that market participants are willing and able to trade these products. Only if a material proportion of UK Power Trading migrates to exchange traded futures would we consider it acceptable for market making to occur exclusively on these platforms.

**Question 8: Do the detailed elements of the proposed market making obligation appropriately balance costs and risk for the licensees?**

26. GDF SUEZ believes that the proposed requirements to be placed on market makers are relatively onerous and so making amendments to reduce or cap the risks could deliver a better cost benefit trade off.
27. If the aim of the proposal is to develop robust reference prices then the key is to have a tight bid-offer spread at the time when these reference prices are being assessed (i.e. the end of the trading day). We therefore feel that the obligations should seek to ensure that this is the case but consideration should be given to reducing the total cost of obligation by reducing the number of market makers, reducing the time for which they need to operate, incorporating fast market rules or capping the maximum exposure that can be built up by a market maker on any trading day (see above for more details).

**Question 9: Do you believe that an industry-run tender process could more successfully deliver our proposals for a market maker? If so, do you have views on how we can solve the practical challenges we have identified?**

28. Yes. GDF SUEZ believes that it is not an effective solution to have six obligated market makers in the longer term. A tender process offers a sensible approach as it provides clarity on the costs of the obligation and ensures that market making is carried out by those best placed to do it at lowest cost to the obligated parties. Provided that there are at least two market makers operating then we do not see there being an issue with the obligated parties transferring their obligation to third parties.

29. Consideration should therefore be given to developing an approach that enables industry market makers to be selected and funded. We feel that it must be the obligated parties’ choice as to whether a tender process is run. In terms of how this might work, GDF SUEZ offers the following suggestions:

- **Centrally Contracted Commercial Process** – Requirements are clearly defined and providing the entities participating in the tender meet minimum requirements (i.e. credit worthiness, ability to trade with participants etc.), selection is made on price only. The contract is between Market Maker and some central body (Ofgem/DECC/Special Purpose Vehicle)

**Market Maker/Platform Tender Process** – Potential market makers come up with proposals to operate on a particular platform. The contractual relationship is between the platform and the market maker. Ofgem could approve or select from these arrangements and require the platform providers to demonstrate compliance. Obligated parties would provide any required financial support to the selected market maker/platform.

- **Obligated Parties** – Obligated parties must deliver 2 or 3 market makers and it is down to them to select and agree commercial terms between each other or with third parties.

30. We note that under the current proposals the costs of providing market making are met by the obligated parties only. We would only support a move to a tendered solution if this continued to be the case.

31. GDF SUEZ recognises that it would be extremely challenging for the obligated parties to specify, tender and appoint a market maker in the timescales proposed by Ofgem. Initially, we support the proposed approach of individual or outsourced obligations whilst taking a pragmatic view that a service provided by tender and paid for by the obligated parties would offer the best long term solution. We therefore feel that the licence condition should be drafted such that it enables the obligated parties to run a tender process to appoint market makers to deliver their obligations if they wish to do so.

32. In terms of the other practical challenges, GDF SUEZ has the following comments:

- **Procurement Risk** – If the obligated parties have the choice of either being obliged to market make at their own cost or entering a commercial tender to provided the same services but with it funded by the industry, then we would expect at least some of them to submit an offer into the tender process.
- **Timetable** – Approach should be for the obligated parties to decide if/when to run a tender process to appoint the market maker. There is then no issue with timetable as if the tender processes is delayed then the obligated parties have to meeting the requirements themselves. We believe that a tender process could be completed within reasonable timetable but we recognise that it would be challenging for the tendered service to be in place by early 2014.
- **Counterparty to the contract and collection of fees** – The market maker contract would outline what was required and what monies would be paid. The commercial contract would likely have to sit with the parties funding the activity (i.e. the obligated parties).
- **Penalties for non-compliance** – Consideration should be given to establishing specific penalties for non-compliance with the market making obligations as opposed to the potential fines associated with a breach of Licence. This would better enable the obligations and potential liabilities associated with non-compliance to be transferred to third parties.

## Chapter five

### **Question 10: Do you agree with our analysis of the costs, risks and benefits of intervening in the near-term market?**

33. GDF SUEZ agrees that developments in the near term market such as market coupling and the use of a near term reference price for intermittent CfDs will further improve day ahead market liquidity and intervention in near term markets is not warranted.
34. Under Schedule C of the proposed Licence Condition, the obligated parties are obliged to provide ‘Additional information’ consisting of a report on volumes bought and sold through day ahead auctions each month. Since the bulk of activity on the day ahead auction takes place through gross bidding, this reporting could be misleading. As gross bidding does not make any change to net liquidity level, it would be better to require reporting of net volumes to give a true figure for the extent of liquidity in this environment.
35. Obligated parties may also choose to trade their day ahead volumes through other routes (bilaterally, through brokers, on the APX). GDF SUEZ would like to avoid the day ahead auction being seen as the de

facto measure of participation in the near term markets. If Ofgem is to retain this part of the licence condition then GDF SUEZ would like to see the reporting requirement extended so that companies can report all the near term trading that they undertake and a true picture of participation in the near term market can be built up. This is particularly important if Ofgem will be actively monitoring this area and drawing comparisons between companies.

36. Our preference however would be to make trade reporting a voluntary activity as proposed in paragraph 8 and to remove the ‘Additional information’ obligation from Schedule C of the Licence Condition entirely.

**Question 11: Do you agree that we should not intervene in near-term markets at this stage?**

Yes.

**For further information please contact:**

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