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Tom Corcut  
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9 Millbank  
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23rd April 2015

Dear Tom,

**Re: Consultation response to SSEHL's application for a minor facilities exemption for Hornsea**

Thank you for that opportunity to respond to Ofgem's Minded to Decision, in which it is indicated that Ofgem does not intend to grant Hornsea a minor facility exemption (MFE).

Whilst Ofgem has applied the same tests and (despite some changes to the text) the same underlying numbers and analysis as in its relatively recent assessment of Stublach's MFE application, we are disappointed that Ofgem does not appear to have been consistent in its approach to framing or presenting the argument.

When considering the potential impact of exemption on **market power** and market operation, Ofgem states on para 2.1 that it will "only grant an exemption if we are confident that there are no appreciable risks of market power or other market distortions. We think that providing access is not economically necessary must be demonstrated to a high standard". This seems somewhat different to the approach taken in Stublach's consultation a year ago where the approach in para 3.1 is framed as "we have examined whether the exemption is likely to adversely affect competition in the market and provide a materially worse outcome than if the exemption is not granted". In the case of Hornsea's application, the onus is on the applicant to demonstrate that providing access is not

economically necessary. In the Stublach application, Ofgem asks whether providing access is economically necessary when compared against the counterfactual. This framing of the test has the practical effect of placing a heavier burden of proof on Hornsea than was applied in previous applications by new entrants.

Furthermore, a comment on **flexibility** in para 2.9 suggests that “any one MRS facility is likely to be a very close substitute for Hornsea”. This does not accurately reflect the cycle rate at Hornsea which is lower than many of the other MRS assets, all of which already hold exemptions.

Also on flexibility, the reference to “A potential move away from oil-indexation” in para 2.14 appears to be at odds with the text in para 2.10 where, under ‘Norway’, this ‘potential move’ appears to be accepted – “As continental Europe reduces its demand for oil-indexed long run contracts ...”. This wording in para 2.10 is more consistent with SSEHL view, however has not been reflected in Ofgem’s analysis.

In para 2.19 Ofgem disagrees with **market definitions** suggested by SSEHL arguing that “SSEHL has based their analysis on one year of flow data”. We would like to emphasise that whilst one year of data was used to generate ‘Chart 5’ in our application, our analysis was based on multiple years.

In ‘Table 2’ and para 2.33, Ofgem has widened its **market share** analysis to include ‘storage space’. This is not consistent with the approach taken in Stublach’s consultation and, if, by including it here, Ofgem is trying to demonstrate a more rounded approach to assessing market share, it should include injectability in this analysis. In terms of economic efficiency, a facility’s cycle rate is key. In addition, in para 2.34, it is not correct to state that “If granted an MFE, SSE would become one of the largest players in the flexibility market”. If anything, this should reference the storage and deliverability market.

This is picked up again in para 2.61, which references removing “some of the safeguards” as part of the **efficient use of capacity section**. We would question why this is a point of differentiation between ourselves and the other already exempt MRS facilities.

We would like to reiterate our indication to continue to make capacity available to the market through means including, but not limited to, auctions, retain the current use-it-or-lose-it provisions and continue to promote the secondary capacity market.

We hope our comments are useful to Ofgem in reaching a final decision. We continue to believe the flexibility market has now developed to such an extent that access to the Hornsea facility by third parties is no longer technically or economically necessary for the efficient operation of the gas market.

**Update: Hornsea deliverability capacity reduction**

Since our application, SSEHL has made a decision to reduce deliverability from the site with effect from 1st May 2015. This decision has been driven by challenging market conditions highlighted in para 3.1 of Hornsea's exemption application and ongoing operational conditions such as the need to continually invest capital to continue to operate the facility at full withdrawal capacity. SSEHL remains committed to bring the mothballed capacity back into operation if market conditions allow or more opportunities for further value creation occurs. In the event that Ofgem rejects our application for exemption, SSEHL intends to continue to keep open dialogue with Ofgem in relation to this change in capacity in order to consider whether an exemption could be granted on the basis of the reduced capacity.

Yours sincerely

(by email)

Lesley Gray  
**Interim Head of Markets Regulation, SSE**

