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1 March 2005

Julian Majdanski
Modification Panel Secretary
Floor D3, NGT House
Warwick Technology Park
Warwick
West Midlands CV34 6DA

DMR 0727, 3rd Party Proposal :
Publication of Near Real Time
Data at UK sub-terminals

Dear Julian

Thank you for the opportunity to comment on the above Draft Modification Report (DMR).

The Europe Transportation and Regulatory function within ExxonMobil International Limited (EMIL) has the responsibility, amongst others, of advising ExxonMobil affiliated companies within Europe on gas transportation and related legislative and regulatory activities. In that capacity, EMIL is, by this letter, providing a response for and on behalf of an ExxonMobil affiliate Shipper (ExxonMobil Gas Marketing Europe Limited); Delivery Facility Operator, (Mobil North Sea Limited); and Producers (Esso Exploration Production UK Limited, Mobil North Sea Limited and Superior Oil UK Limited). To the extent that individual responses are used to determine a majority, this letter should be taken as an individual response for each company in its respective capacity.

ExxonMobil fully endorses the Transco recommendation not to support the Proposal.

ExxonMobil does not support the further provision of information where there is uncertainty as to the benefit, the confidentiality, and the liabilities of providing that information.

Discussions led by the DTI with UKOOA, Transco and including Ofgem concluded with an Industry Agreement (IA) in March 2004 to provide information to Transco and the wider market. Many of the issues highlighted in Transco's DMR were discussed at length before an agreement could be reached. With the implementation of the March 2004 agreement not expected to be completed before July 2005 it appears to ExxonMobil that further modification of the rules governing the provision of information is wholly inappropriate.

In our view the points that have not been sufficiently addressed in the DMR are:

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Benefit analysis

The benefits assumed are not repeatable or allocable to a specific piece of new information and therefore are unreliable in their determination. All the benefits put forward for this further modification can be claimed to have been already achieved as part of the IA. When set against known identifiable and repeatable costs for installation of new equipment and the continued annual operation we believe the contention that there are further considerable benefits to the consumer, beyond that already achieved, is not substantiated nor indeed valid.

We understand the main element of the Mod 727 proposed by energywatch is to provide information, that has already been agreed under the IA Phase 3 Category 1 at the National, North and South zones, additionally at sub-terminals with flows greater than 10 MCMD. We fail to see that this incremental modification can deliver the proposed benefits suggested by energywatch.

The traded market for gas is primarily at the NBP and therefore the relevant information is the gas being delivered to NBP on an aggregate basis not where the gas supply shortage or length may physically be. Locational information required by the market is already provided through the OCM mechanism.

The information provision requested in the DMR is not reciprocal with energy suppliers, wholesalers or traders. If a supplier, wholesaler or trader find themselves short or long of gas they are not required to declare the amount they are short or long to the market.

Under the so called Phase 1 of the IA better offshore outage information has been provided to Transco and under Phase 3 Category 3 the aggregated impact of this maintenance is also reported by Transco since October 2004. The energywatch modification does not take any benefit of these actions into consideration.

Increased information is not always a benefit

Mandating the provision of certain information to parties who cannot always understand the basis or relevance of the information that they are receiving is likely to increase the incidences of inappropriate actions in the market. A simple example being a short duration instrument failure resulting in reporting of low flows, but where no actual change in the physical flow occurred.

Confidentiality

Transco has raised valid concerns over the confidentiality of the information that is currently provided for Transco use alone. The IA reached an understanding between the DTI, UKOOA, Transco and Ofgem that the balance between additional information to the market and protection of confidential information was achieved by aggregation at a National, North or South zonal basis. If there was any economic redress identifiable from the publication of disaggregated information then the affected party(ies) are likely to seek financial recompense. These points are in addition to the legal obligations under the Utilities Act 2000 (Section 105) and Transco's Gas Transporters License (Standard Condition 39) that Transco themselves have identified.

Liability for information

The provision of market sensitive information raises complex questions as to potential liability which can lead, amongst other things, to additional cost in providing such information. The potential for such liability is likely to see information providers seeking indemnities against potential losses, disclaimers as to the accuracy or reliability of information provided or arrangements that might otherwise add costs into the system.

Comparison with the Electricity market

The energywatch organisation asserts that the information they are requesting is the same as already available in the electricity market. We would argue that the two markets are fundamentally different and the comparison is not relevant or valid. Gas is a product of a complex and technically challenging process of extraction, or production, from subsurface reservoirs that face a significant element of risk. Whereas, electricity is manufactured by conversion of a raw material ie gas, using a discrete manufacturing process.

In the electricity market the balancing period is 30 minutes whereas the gas equivalent period is within 24 hours and therefore the requirement for information is fundamentally different.

It is also worth pointing out that Transco themselves state that the information requested by energywatch is not provided in the electricity market.

Maintenance Coordination

The energywatch organisation is calling for greater coordination of maintenance activities. This suggestion surprises and concerns us as it runs counter to guidance we have seen from UK and EU Competition authorities and, in our view, may potentially infringe UK and European competition laws. These are significant issues that may impact not only the European gas supply market but also, for example, the markets for the supply of goods and services to the offshore and onshore oil and gas infrastructure industry.

By way of an example, UK competition law, Chapter 1 of the Competition Act 1998 prohibits agreements between undertakings that have the object or effect of preventing, restricting or distorting competition. Information sharing agreements are not, per se, anti-competitive. However, to the extent that sensitive information is shared, the effect that it may have means it needs to be carefully considered. In this respect, the OFT's Guidance Note 401 of March 1999 is worthy of note. It states:

"In general the exchange of information on output and sales should not affect competition provided that it is sufficiently historic and cannot influence future competitive market behaviour. There may however be an appreciable effect on competition if it is possible to disaggregate the information and identify the participants. This may also be the case if the exchange relates to recent, current or future information" (paragraph 3.24).

This suggests to us that it is the view of the OFT that sharing information which is not historic and could therefore influence competitive market behaviour is something that may infringe the provisions of Chapter 1 of the Act. It is for this reason that we took care over the arrangements we now have to provide aggregated data. Any move away from those

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arrangements would require very careful consideration and, at the very least, appropriate comfort from the competition authorities that they took no exception to any such exchanges.

UKOOA, the offshore operators trade association has also made a response and we fully support the points that they raise and the conclusions they draw.

We are also aware of the separate consultation on Offshore gas production information disclosure by Ofgem and we will be responding separately to that consultation.

We trust that our views will be taken into consideration. If you require any further clarification please contact myself or Chris Crane Telephone: 020 7412 4274 email: chris.crane@exxonmobil.com



Peter P. Clarke

*cc DTI - Claire Durkin
Ofgem - Steve Smith*