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Dear Mr Watson

14 and 17 August 2007 Workstream - Comments re NGG's preliminary baseline re-consultation

We refer to the above Workstream meetings in relation to the baseline re-consultation process by which options for re-calculation of baseline entry capacities was discussed. Written comments were requested by 31 August 2007 and we are grateful to NGG for their agreement to receive Excelerate's comments today.

Excelerate's business model

Having reviewed the minutes of the transmission workstreams we set out some specific comments below. However, Excelerate's overriding concern is to remind Ofgem and NGG that they have not adequately addressed the specific requirements of Excelerate's GasPort and other intermittent users of the NTS which do not exhibit the same operating characteristics as conventional NTS users.

Excelerate's business model is to respond to commodity pricing signals which means that short term – daily – capacity availability is key. The basic building block for such capacity is the entry capacity baseline. Excelerate came to Teesside because NGG said capacity was abundant. Any new Teesside baseline must recognize this.

The DBERR (formerly DTI) has acknowledged and accepted the importance of the operation of GasPort to promote the security of supply and competition in the gas industry.

In 2006-2007 Excelerate invested heavily in infrastructure in order to execute its business model relying upon the abundant capacity at Teesside and the support for its business model shown by the DBERR, Ofgem and others.

At present the entry regime unfairly favours long term users. Ofgem therefore needs to accommodate users such as Excelerate in its entry regime.

Ofgem has acknowledged in relation to electricity transmission that it may need to develop tailored auction capacity products to reflect the operational profiles of particular types of power generators. Excelerate believes that the entry capacity regime for gas should also reflect a tailored approach. In other words, Ofgem needs to address the capacity requirements of Excelerate's particular operational model which furthers the energy needs of the UK and promotes Ofgem's own statutory objectives under section 4 of the Gas Act, namely (i) Ofgem's principal duty to protect consumers by promoting competition in the supply of gas; and (ii) Ofgem's duty to have regard to security of supply.

Excelerate does not intend to prescribe measures that might be taken but believes that the new regime will require at least:-

(i) A Sufficiently high entry capacity baseline at Teesside properly calculated to include Excelerate's flow rates;

(ii) That a sufficiently large proportion of that capacity is held back for shorter term auctions including day ahead auctions;

(iii) Proposals for any enduring trade and transfer mechanisms must also apply to day ahead auctions and maintain the philosophy currently adopted under Mod 0169 with priority for within zone transfers that recognise the common use of capacity;

(iv) NGG's current methodology of one to one exchange rates in the Northern Zone should remain in place; and

(v) Capacity Substitution arrangements that take into account the Excelerate business model and the interconnectivity of UK and US markets as a result of the LNG trade.

Subject to the above, we have a number of specific comments as follows:-

1. Assurances over Teesside capacity availability

NGG indicated confidence in entry capacity availability to Excelerate which helped to underpin the investment in bringing GasPort to parts of the NTS with spare capacity. However, please see our general comments above.

2. Confidence in the regime

Ofgem must provide shippers with the confidence that long term investment plans of which they were aware and actively supported will not be undermined by fundamental regime changes.

3. Relationship with Entry Capacity Charging

The obligation on NGG to have a zero priced clearing auction of firm capacity undermines the long term booking of capacity. Shippers acted rationally in not booking long term capacity and they should not be prejudiced as a result.

Any assessment of the level of sold capacity should take into account the level of actual gas flows, reflecting capacity sold at the day ahead and within a day stage.

4. Risk of Buy-back Payments

The September 2006 consultation talked about an analysis of risk of buy-back. Did this take place? NGG has issued figures which show little buy-back and these figures predate a £1.3 billion investment programme to increase capacity from Easington and provide capacity for Milford Haven and Isle of Grain. It is not clear if there is a realistic risk of buy-back actions being required as a result of the greater diversity in supply sources. NGG has not published any combinations of flows to support their analysis that there are credible scenarios that lead to high buy-back costs.

Evidence provided by NGG indicates that all examples of buy-back, bar three in winter 2004/05, have been due to summer capacity, possibly made worse by NGG telling shippers of maintenance schedules.

5. Ten Year Statement Planning

NGG used 2005 TBE figures – prior to Excelerate flows – as a basis for the baseline calculations in 2006. We understand that NGG forecasts 22 MCMD CATS gas + 11 MCMD for Excelerate for winter 07/08. For subsequent winters, with Excelerate flowing up to 16.5 MCMD, NGG appears to forecast only 16.5 MCMD for CATS gas. These forecasts appear to be too low and not reflective of the actual flows that can reasonably be expected to flow down CATS and hence we would ask NGG to confirm these forecasts with the CATS operator.

6. Discrimination

Levels of entry capacity baseline must not be set using a methodology that is discriminatory in any way. It must give an opportunity to attract all sources of gas such as LNG from international spot markets and not just ones where gas is a by-product of high value and profitable oil.

7. Transfer-Trading-Substitution

Any transfer of unsold capacity should apply to all auctions including the day ahead.

If an ASEP is sold out on a day ahead auction basis there should be a transfer in of unsold capacity from within the same zone to meet any additional demand for capacity on that day.

Any substitution of capacity must still maintain a minimum zonal aggregate baseline, for Northern Zone around 200 - 210 MCMD.

Capacity must be efficiently used. If, for example, 20 MCMD at one entry point only provides 2 MCMD at another ASEP in a different zone, then this should not be allowed as the drawback resulting from a loss of 20 MCMD is greater than the benefit of the 2 MCMD.

8. Request for Information

In the 2006 LTSE there were successful NPV bids at Easington, Fleetwood, Cheshire with a significant level of capital expenditures associated with these bids.

We would like to understand which entry zones the Fleetwood and Cheshire projects will be in and what will be the impact of these projects on existing zonal capacity.

In addition, it would be helpful if NGG explained what investment was being made (both level and timing) and how this impacts on the overall level of baseline capacity and the buy-back risk. Any new baselines will have an impact for winter 08/09 which is only one year ahead of a possible increase in capacity at Easington which could have an impact on Northern Zone capacity.

Similarly, what investment would be made for a successful entry capacity bid at Isle of Grain in the September 2007 auctions?

Yours faithfully,

Rob Bryngelson

Rob Bryngelson,
President & CEO
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CC: Steve Smith & David Gray, Ofgem (By e-mail)