

Graham Craig
Gas Branch
Utility Regulator
Queens House
14 Queen Street
Belfast BT1 6ER

29 September 2014

Dear Graham

Mutual Energy response to the Consultation on Provisional Decisions

On the 12th August 2014 the Utility Regulator issued a consultation on its provisional decisions on the Gas to the West license Applications. Mutual Energy is pleased to respond to the paper.

At this stage we do not believe any of our comments will need to be redacted and are happy for the Utility Regulator to publish.

General comments

The nature of the competition and the relative weighting of the criterion was clearly designed to score a low cost proposal favourably. As with all complicated competitions the difficult part is the quantification of quality to compare to the more easily quantifiable cost. The Authority, in clarification 74, made clear that the evidence provided would be given weight as an element of the scoring under the DETI Published Criteria. This clarification was made specifically in respect of the numbers bid. The application of the evidential analysis was fundamental in the determination of the Preferred & reserve bidder. The process by which the bidder with poor evidence was given a score and then disqualified did not affect the outcome in this case. However the Northern Ireland Energy Holdings bid was disadvantaged by losing 37.5 marks out of a possible 50 by being marked against a bid which was clearly without proper evidence.

Best Value

Criteria 3.17 (a)

This criterion covered four areas: engagement with key stakeholders; skills and experience of key staff who would build and operate the pipeline, identification of risk and proposals as to the management of these risks and the use of tendering arrangements.

In respect of stakeholder engagements we were surprised that the scoring of the applicant's proposal as to the engagement with key stakeholders favoured those having constructed pipelines in Northern Ireland. In the area of stakeholder engagement we would contend that the information in our OBP was clearly more comprehensive than the other applicants, both in identifying the stakeholders and outlining the rationale for engaging with them, the key messages and the channels for engagement. It has been recognised that NIEH presented an extensive and detailed plan



developed by experience gained as a Major infrastructure owner, operator and developer within Northern Ireland.

In respect of identifying key staff the people named in the application are the people who are scheduled to be involved in the project, with the limited positions not identified in advance recorded as "to be appointed" in the document and with clear role descriptions and methods for appointing identified in the business plan. In our view this is clearly superior to identifying a generic pool from which staff will be drawn or unclear plan to appoint a project team in the future. In addition there is a clear indication of where framework contracts or new procurement exercises would be needed for the sub contracts assumed to be in line with the Fingleton McAdam study for the purposes of the competition.

Identification and Management of Risk has been interpreted by NIAUR as requiring the identification of the risks, the process for managing the risks and a view on the impact and probability of the risks materialising. As outlined in our process every project requires a comprehensive risk assessment and Hazop process specific to that project and so risks identified by all the bidders at this stage are somewhat generic. The operational business plan as presented clearly covers construction and post construction periods and risk at both a board level and project level. Any application not addressing all these levels should be viewed as incomplete. Again impact and probability are always project specific and follow on from set stages of the construction process. We would wish to draw your attention to figures 4.1.3.a through to 4.1.3.d which identify not only a list of both project risks and operational risks but also probability of occurrence and assessment of impacts. These are drawn from other high pressure gas projects and show the levels which would be expected from the gas to the west project.

The operational business plan is clear and specific in the use of tenders and the framework contracts which are available to use.

Criteria 3.17 (b)

We note the comments on the letters of support and the acceptance of the willingness from the funders to participate. The conditionality included is as one would expect from a project at this stage. We would seek to reiterate that the evidence provided on the ability of the Mutual Energy Group to raise 100% debt for the project is based upon evidence from its own experience as required under the DETI criteria.

In respect of some specific points, we believe cash drawn down for working capital would have been regarded as self-explanatory, given that any business requires working capital to operate. On the other areas which the application was marked down we were surprised that the use of cash reserves in other gas businesses to fund transaction costs was considered not to be robust as the only remaining party required to agree was the Authority, with the agreement of all other parties secured. An assessment of the Authority likelihood of viewing the merits of releasing cash otherwise trapped within an existing financing structure to reduce bills to customers should be viewed as a safe assumption, albeit that it could not be completed until the event occurred.

Criteria 3.17 (c)

The other aspects of the assessment covered in this section included experience in both construction and operation, the proposals to mobilise and manage and proposals on timeliness. By way of observation the proposal we put forward clearly indicated that we would assess the opportunities to

replace High Pressure pipe with Low Pressure where appropriate. This assessment should take place as close as possible to the build out, rather than based upon assumptions on loads which are 5 years old, and any proposals at this bid stage should be given little weight. Our bid clearly aims for a 3 year delivery, the vagaries of issues outside a utilities control notwithstanding. This did not seem to attract any benefit in scoring against bids which were indicated as 4 years but with 3 years included solely to adhere to the competition rules.

Conclusion

Mutual Energy is very pleased to be given the opportunity, in conjunction with its partner SGN, to deliver this important infrastructure project . Whilst we believe we should have scored higher in a number of areas, the end outcome is correct and clearly for the benefit of the customers of Northern Ireland. The low cost base of Mutual Energy combined with the industry expertise of SGN will bring benefits to the Northern Ireland gas market and through to the gas customers.

Yours Sincerely



Marcus McFarlane