

Mutual Energy Response to the Utility Regulator Consultation on Regulation 1775/2005 Infringement Action

Introduction

Mutual Energy Limited ("**Mutual Energy**" or "**MEL**") is grateful to have the opportunity to respond to this consultation on behalf of its two wholly owned subsidiaries (Premier Transmission Limited ("**PTL**") and Belfast Gas Transmission Limited ("**BGTL**")) which hold licences to convey gas issued by the Northern Ireland Authority for Utility Regulation, granted pursuant to the Gas (Northern Ireland) Order 1996.

PTL is the owner and operator of the Scotland to Northern Ireland natural gas transmission pipeline (the "**SNIP**"). PTL also operates the Belfast Gas Transmission Pipeline (the "**BGTP**") on behalf of BGTL.

General Comments

Regulation EC No 715/2009 (the "**Regulation**") states the following at Annex 1, paragraph 3.2(1):

"(1) Relevant Points shall include at least:

- (a) all entry and exit points to and from a transmission network operated by a transmission system operator, with the exception of exit points connected to a single final customer, and with the exception of entry points linked directly to a production facility of a single producer that is located within the EU;*
- (b) all entry and exit points connecting balancing zones of transmission system operators."*

Considering the South North pipeline, the Relevant Point is by definition at Gormanston as this is the physical point at which the BGE (UK) transmission system connects to the BGE transmission system which is operated by Gaslink, as noted at paragraph 3.2.1(a) of the Regulation. Gormanston is also the point at which the two balancing zones connect, as noted at paragraph 3.2.1(b) of the Regulation, and the point at which the AGI and meter are positioned to allow the two transmission systems to connect. Therefore, Gormanston is the point which fulfils the criteria of the legislation. We do not believe that, given the clarity provided by the legislation in relation to this matter, it would be legal *not* to allocate Gormanston as a Relevant Point.

It has been suggested that, legally, the Relevant Point could instead be placed at the jurisdictional border, if it can be shown that this alternative point could equally serve the same purpose and better promote seamless cross border trade in gas without undermining the Regulation or adversely affecting the interests of Shippers or customers in either jurisdiction. Under the Regulation, an

arbitrary point on the SNP at the border does not have to be considered a Relevant Point as it does not constitute an entry or exit point from the transmission networks and is not the point at which the balancing zones connect and therefore does not fall under the criteria set out in the Regulation. Gormanston does meet the criteria and designating a point at the border would not remove the fact that Gormanston is by definition a Relevant Point. The Regulation is clear about the definition of a 'Relevant Point' which avoids the need for interpretation of its underlying objectives. We believe that ignoring the criteria for a Relevant Point as included in the Regulation would constitute a non-compliant solution and would increase the risk of further infringement or fines being imposed by the EU. Given that Gormanston adequately meets a literal interpretation of the Regulation, we see no reason why it should not be considered the Relevant Point on the SNP.

We would also highlight the tight timeframe under which the actions to address the infringements of the Regulation are to be met. The Utility Regulator has noted in the consultation that a further review would need to be undertaken if the border was to be considered the Relevant Point and this may have an adverse impact on the timetable currently in place.