



197 AIRPORT ROAD WEST
BELFAST BT3 9ED
TEL: 028 9055 5555
FAX: 028 9055 5500

Roisin McLaughlin
NIAUR
Queens House
14 Queen Street
Belfast
BT1 6ER

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Dear Roisin

Consultation on Regulation (EC) 1775 / 2005 Infringement action

Phoenix Natural Gas (PNG) welcomes the opportunity to respond to the Utility Regulator's (UR) consultation the European Commission referral of the UK and Ireland to the European Court of Justice.

PNG are fully supportive of the Utility Regulator (UR) in its attempt to address the infringements identified in order to prevent significant fines being received but we strongly believe that the measures used to address each issue should be meaningful and cost effective for both the Northern Ireland (NI) consumer and the natural gas industry. The agreed processes should deliver true benefits and should not be simply viewed as a 'tick box' exercise. The timeline for addressing the three areas of the infringement appear to be extremely challenging and PNG would have concerns that this hasty approach may not result in the most appropriate solution being delivered and does not allow interested parties to provide fully considered responses.

In relation to the three areas of the infringement action being addressed in this consultation PNG has outlined below its thoughts on each area.

Short Term Products

PNG would question what benefits the proposed products being offered actually bring, particularly to shippers who operate within distribution networks in NI. As UR will be aware distribution operators are required under licence to book and hold all transmission capacity on behalf of all shippers who operate within their distribution licence area. The charges associated with the holding of this capacity are transferred from distribution operator to each shipper on a monthly basis and an annual reconciliation process undertaken. Therefore PNG fail to see why any shipper

operating within a distribution zone in Northern Ireland would look to secure any short term capacity given the current regime. Having also considered the high level business rules for the proposed NI daily capacity products included in the further consultation issued by UR on 9th March 2012, which indicate that the shipper needs to have an appropriate contract path and that any short term capacity secured by the shipper would be added to its long term firm capacity booking, we would point out that no shipper transporting gas to a distribution network would be able to avail of the product as they do not have firm contract paths and all gas transported by them is done on an interruptible basis.

We therefore believe that the products as designed may bring EU compliance but they will bring absolutely no benefit to shippers operating in distribution zones in NI and ultimately will bring no cost benefit to NI consumers. PNG believe that it is essential that UR continues to work towards a longer term cost effective solution which allows all shippers in NI to avail of appropriate capacity products which bring true benefits.

Although it is envisaged that to introduce these short term capacity products will not require a fully automated system solution, PNG understands that a system, all be it a simple one, will need developed to allow the shipper to request the relevant bookings and there will also be a requirement for the exchange of information between the transmission system operators. Given that the majority of shippers in NI, namely distribution network shippers, cannot avail of the products being proposed then PNG strongly believe that the distribution shipping community and the NI distribution consumer should not be expected to pick up any cost associated with delivering these products and any costs incurred should be met fully by the transmission system operators.

Virtual Reverse Flow

Similar to PNG's comments above on short term capacity products, we believe that any products being offered need to be meaningful and bring true cost benefits. We are unsure how effective any virtual reverse flow product can be in a point to point regime and again we are unsure as to who within the NI natural gas shipping community would actually avail of these products.

Relevant Point on the SNP

Although the UR consultation document recognises that there are two possible solutions which could address the infringement on failure to designate a relevant point on the SNP, namely Gormanston or the jurisdictional border, the UR paper does not provide any detail on the choice of the border and refers the consultee instead to a similar consultation paper published by the CER for this detail. PNG believe that given the limited time that industry has been given to consider such a complex issue that the Regulatory Authorities have failed to provide sufficient information to allow respondents to make a proper considered response.

PNG has considered both consultation papers and it appears either solution would bring EU compliance but the absence of information on the border solution in the UR

paper and the detail on the benefits of the border solution to the Irish regime in the CER paper has led PNG to conclude that NI would not necessarily experience the same benefits as Irish shippers from designating the jurisdictional border as the relevant point.

It is clear from the CER consultation and the recent discussions on the infringement actions at the NI Stakeholders group meeting that one of the primary benefits for the border option is that it deals with the requirement for the transmission operator to facilitate new connections from the SNP to the Irish on shore system and indeed one of the examples given is the possible need to reinforce the Dundalk area using the SNP pipeline. UR however also believes that Gormanston allows this to happen and references Stranraer in Scotland as an example of how this could be accommodated. PNG believe that irrespective of what option is chosen, it is essential that since the SNP forms part of the NI transmission system and that NI consumers pay all costs associated with this pipeline any revenue generated by the transmission operator for its use by Irish shippers must be used for the benefit of the NI consumer and the NI consumer should not be expected to pay for any connection to this pipeline that provides reinforcement to the onshore Irish system. We assume that both Regulatory Authorities will give this issue proper consideration when considering any new tariffing arrangements for the SNP. PNG also feel that consideration needs to be given when determining an appropriate location for the relevant point to the issue of possible stranded asset at Gormanston and the costs associated with any new infrastructure required at the border if the border is the preferred option.

In summary PNG are supportive of the attempt to put in place processes which remove the threat of penalties as a result of EU infringement actions but we strongly believe that UR should only approve solutions which bring meaningful and cost effective benefits for the NI gas industry and the NI gas consumer. We do accept that the need to deliver solutions to these issues in such a short timescale may affect UR's ability to approve solutions which will work long term but it is essential that UR continues to work with the NI gas industry to develop long term viable products and a regime that delivers true cost benefits.

PNG would also ask that its comments within this consultation response on the short term capacity products are taken into consideration when UR are considering its decision on the proposals contained in the Consultation on NI Daily Capacity Products – High Level Business Rules.

If you have any questions regarding the Phoenix Natural Gas response please do not hesitate to contact me.

Yours sincerely

Joanne

Joanne Quinn
Transportation Services Manager
Phoenix Natural Gas Limited