



15 Windsor Terrace,
Sandycove,
Co. Dublin.

Mr Richard Hume,
Northern Ireland Authority for Utility Regulation,
Gas Branch,
Queens House,
14 Queen Street,
Belfast, BT1 6ER.

11th January 2012

Re: Gas Storage Licence Consultation 7th December 2011

Dear Richard,

We are writing in response to the above consultation paper published by the Utility Regulator on the 7th December 2011. Our comments on the consultation are set out below.

Condition 2.2.2 Independence of Gas Storage Business

Questions 1: Does the proposed licence condition cover the requirements of Article 15 of the Directive?

No. The provisions in the Directive are more detailed and prescriptive than in the Licence. For example, Article 15 (2) (a) of the Directive is not addressed in the Licence:

"Persons responsible for the management of the transmission system owner and storage system operator shall not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the day-to-day operation of the production and supply of natural gas"

The licence conditions should be identical to the provisions of Article 15 of Directive 2009/73/EC.

Condition 2.2.3 Duty to promote effective competition

Question 2: Does the proposed Licence condition cover the requirements of Article 3(1) and Article 16(3) of the Directive?

Yes. The proposed Licence condition adequately covers the requirements of Article 3(1) and Article 16(3) of the Directive.

Condition 3.1.2 Use-it-or-lose-it

Question 3: What are the respondents' views on the requirement to contain a UIOLI condition within the licence?

As the European Regulators' Group for Electricity and Gas (ERGEG) Public Consultation Paper (E10-GST-09-06) dated 28 July 2010 concluded, and as Guideline I of the amended GGPSSO¹ provides for; we support the promotion of secondary markets for storage capacity rather than the application of UIOLI² as a tool for congestion management.

Question 4: What are respondents' views on the Utility Regulator approving the UIOLI mechanism?

Please see our response to question 3.

Licence Schedule 1, Part 1 (4) Special Conditions applicable to the Licensee's storage facility – Directions by the Authority

Question 5: Where TPA does not apply, does the Utility Regulator need the authority to make directions to the terms of contract between the storage system operator and a third party?

No. We believe if the Utility Regulator has deemed the facility exempt from Third Party Access, and there is a Use-It-Or-Lose-It mechanism in place, and all regulations and directives are being met, the Utility Regulator does not need to make directions between the operator and third party.

Question Six: Do respondents have any further general comments on the draft gas storage licence or on the specific licence conditions?

Yes. Figure 3 of the Consultation Paper entitled "Decision process relating to Article 36" does not include a **market test** in the conditions to be met. This does not comply with Section 6 of Article 36 of Directive 2009/73/EC. The process should be updated to comply with Section 6 of Article 36 of Directive 2009/73/EC.

We would be happy to discuss any aspect of the above comments with the Utility Regulator.

Yours sincerely,



Martin Regan

¹ *Amendment of the Guidelines of Good Practice of Storage System Operators (GGPSSO)*, Ref: E10-GST-14-04, 2 February 2011

² Page 6 of the ERGEG Consultation Paper states: "The application of UIOLI in gas storage is complicated because it limits the use of storage as a flexibility tool. An improvement of the secondary markets towards more standardisation is broadly supported by the market participants as the status review 2009 has shown, more regulation (as Use-It-Or-Sell-It, hereafter: UIOSI) is requested only in cases when liquidity on the secondary markets will stay limited."