

16<sup>th</sup> October 2009

Richard Hume  
Utility Regulator  
Gas Branch  
Queens House  
14 Queens Street  
Belfast  
BT1 6ER

Dear Richard,

**Subject: Consultation on Gas Storage Regulatory Framework**

Islandmagee Storage Limited ("IMSL") welcomes the opportunity to comment on the Utility Regulator's Gas Storage Regulatory Framework Consultation Paper dated 22<sup>nd</sup> July 2009.

IMSL is an independent Northern Ireland ("NI") registered company which will shortly be submitting a planning application for a £230m gas storage facility at Ballylumford on Islandmagee, County Antrim. The Islandmagee Storage Project, designed to store 500mcm of natural gas, is a joint venture between Infrastrata UK Limited ("IS-UK") (part of the Portland Gas plc group of companies) and Moyle Energy Investments Limited (part of the Northern Ireland Energy Holdings group of companies).

The clarification of both the regulatory framework and transmission tariff arrangements for gas storage in NI are keys for developers of gas storage to make long-term investment decisions. IMSL welcomes the current consultation on the regulatory framework and looks forward to the Utility Regulator providing its views on transmission tariffs in the near future.

The Consultation Paper requests the views of the industry on a range of questions; IMSL's comments are therefore set out below in response to these:

- 1. The Utility Regulator seeks industry views on the concept draft gas storage licence presented as part of the gas storage regulation framework for Northern Ireland.*

IMSL agree with the Utility Regulator's initial view that the Storage System Operator ("SSO") would be the most appropriate licensed business. In the case of the Islandmagee Storage Project, IMSL would be the SSO. IMSL is an independent company and would, as required under the proposed licence structure, be legally distinct and separate from any other business which is engaged in the production or supply of gas in NI.

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IMSL recognises that the key elements of the proposed gas storage licence have yet to be drafted. IMSL has a number of drafting comments which could be addressed at the point that the Company applies for a licence, but has no further comments at this stage on the broad proposed scope of the agreement, beyond general comments below in relation to the regulatory framework which will be incorporated within PART 2 of the proposed licence.

2. *Are there any other aspects of the Third Package legislation that should be considered for the future regulatory framework of gas storage in Northern Ireland?*

The 3<sup>rd</sup> package also requires that storage facility contracts shall include measures to prevent capacity-hoarding, by taking into account the following principles, which shall apply in cases of contractual congestion:

- the system operator shall offer unused storage capacity on the primary market without delay
- storage facility users who wish to re-sell their contracted capacity on the secondary market shall be entitled to do so.

The Utility Regulator may wish to consider whether such principles are incorporated in the storage licence.

3. *The Utility Regulator seeks industry views on the relevant geographic and product markets applicable to a gas storage facility in Northern Ireland.*
4. *The Utility Regulator seeks industry views on the discussions on market power in relation to a storage facility in Northern Ireland and its influence on selecting the most appropriate TPA regime.*

IMSL would prefer to respond to the above questions together as the Company views the two as interlinked. To ensure that a given gas storage facility cannot exert market power requires an open market for access to storage in Northern Ireland and GB. Such an open market is equally required for commercial storage to develop in Northern Ireland, and the investment required for construction of these facilities to provide a much needed increase in security of gas supplies to NI. The driver to ensure open market conditions is the implementation of a tariff system for network access which does not discriminate storage developed in either NI, Republic of Ireland ("ROI") or GB; i.e. access to storage in NI for NI based shippers and suppliers must be cheaper or equal in price to using storage facilities in GB. Equally GB and ROI shippers and suppliers must be able to access NI storage for a similar cost.

It is hoped that the Common Arrangements for Gas ("CAG") and developments of National Grids access arrangements at Moffat in Scotland, will allow further integration of the NI and ROI markets to further expand market access and bring existing storage facilities and potential new developments into a GB and Island of Ireland market area. In due course greater liberalisation of mainland European markets will widen the market area further for storage.

A further requirement for an effective linkage of the NI market to GB for storage is the ability to nominate entry capacity at Moffat. IMSL is pleased to see that progress is being made in this area. National Grid NTS are considering a

commercial counter flow service similar to that at the Balgzand-Bacton Line (BBL) and National Grid NTS and Gaslink have agreed to co-operate where necessary.

In summary, the effective linkage of markets on the Island of Ireland and GB, and further integration with mainland European markets will result in any gas storage facility constructed in NI not exerting market power which in turn will make a negotiated TPA regime the most appropriate. A storage facility would need to compete with storage facilities elsewhere in the "market area" on a "level playing field".

The commercial structure of a SSO can further enhance competition within the storage market and support negotiated TPA. The SSO could be an independent company with capacity in the facility held by various different organisations; either capacity held by different shareholders or on a series of long-term contracts to third parties. This point is developed further in response to Question 6 below.

*5. The Utility Regulator seeks industry views on the application of the technically and/or economically necessary assessment regarding access to a gas storage facility in Northern Ireland.*

It is the view of IMSL that it is appropriate to apply the technically and/or economically necessary assessment in NI, but it is important to consider the entire supply chain and market area. To date NI has relied on the flexibility within the GB market to supply flexibility in NI.

*6. The Utility Regulator seeks industry views on the appropriateness of each regime (negotiated or regulated) as a framework for access to gas storage facilities in Northern Ireland.*

For the development of commercial gas storage in NI, it is IMSL's view that negotiated TPA is the most appropriate regulatory framework for access to gas storage facilities, on the assumption that future transmission tariff arrangements ensure that the relevant geographic market area is NI, ROI and GB.

Consideration should also be given to obligate, gas suppliers and power generators to hold a specified quantity of gas storage, in order to meet security of supply standards set out by government and regulators.

IMSL qualifies this view on the definition and role of the SSO within the 3<sup>rd</sup> Package. On services to the market the following extracts from the 3<sup>rd</sup> package states that the SSO will:

- offer services on a non discriminatory basis to all network users that accommodate market demand; in particular, where an LNG or storage system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions.
- offer services that are compatible with the use of the interconnected gas transportation systems and facilitate access through cooperation with the transmission system operator.
- make relevant information public, in particular data on the use and availability of services, in a time-frame compatible with the LNG or

storage facility users' reasonable commercial needs, subject to the monitoring of such publication by the national regulatory authority.

- provide both firm and interruptible third-party access services; the price of interruptible capacity shall reflect the probability of interruption.
- offer to storage facility users both long and short-term services.
- offer to storage facility users both bundled and unbundled services of storage space, injectability and deliverability.

In the context of a joint venture company the commercial structure might be one where the SSO manages the nominations on behalf of a number of capacity holders i.e. the SSO will aggregate nominations on behalf of long-term capacity holders and not itself provide the services direct to the market.

In such circumstances, compliance with the 3<sup>rd</sup> package could be achieved in two possible ways:

- The SSO is required in the gas storage licence to comply with the requirements for "short-term" services to the market such that a system of capability allocation under the storage facility capacity agreements included a use it or lose it ("UIOLI") provision to prevent any hoarding of unused capability by capacity holders. The SSO could be required to ensure that there are no anti-competitive practices by capacity holders and offer the unused daily capacity to the market.
- The licence takes account of the particular circumstances of the capacity structure within the commercial structure of the joint venture. For example in the case of IMSL it is envisaged that capacity will be made available to the market by Moyle Energy Investments Limited ("MEIL") on a basis that would satisfy the 3<sup>rd</sup> package requirements for the project as a whole. Therefore the licence could reflect that the SSO is an independent operating company but that operation of the facility by capacity holders results in full 3<sup>rd</sup> package compliance with Third Party Access to the gas storage facility on a non-discriminatory basis.

Finally, given the links between the NI, ROI and GB markets and their interdependence and an effective competitive market in gas storage it seems appropriate that NI should adopt a similar regulatory framework to GB in respect to gas storage; i.e. negotiated TPA.

*7. The Utility Regulator seeks industry views on the suitability of applying exemptions to the TPA requirements for a gas storage facility in Northern Ireland.*

IMSL supports the proposal of the Utility Regulator to consider exemptions to the TPA requirements to minor facilities as set out in Section 7.7 of the Consultation Paper. In the early years it may be necessary to have firm contracts in place with shippers to provide security of revenue for Financiers, so consideration should also be given to facilitate TPA exemption for the initial period of such contracts for larger facilities.

IMSL hopes the Utility Regulator will find the above comments useful in its development of the regulatory framework for NI. IMSL welcomes the transparent approach to this important aspect. Clarity on the framework and in due course transmission tariffs are keys to the investment decisions for much needed gas storage development in NI. The development of a significant gas storage volume in NI is important for security of supply given the potential for supply interruption.

Please do not hesitate to contact me if you would like to discuss any of the above comments.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'AH', is positioned above the typed name.

Andrew Hindle  
Managing Director