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Agency for the Cooperation
of Energy Regulators

The Director

Ljubljana, 3 October 2014
ACER-AP-DH-2014-540

Mr. Malcolm Webb
CEO Oil & Gas UK

Mr. David Cox
Managing Director, Gas Forum

Oil & Gas UK
6th Floor East
Portland House
Bressenden Place
London SW1E 5BH
Email: mhall@oilandgasuk.co.uk

By e-mail only

Subject: *Your request for an amendment to the Network Codes on Capacity Allocation Mechanisms (CAM NC) and Balancing (BAL NC)*

Dear Messrs. Webb and Cox,

On 24 July 2014, the Agency for the Cooperation of Energy Regulators ('the Agency') received the joint submission of Oil & Gas UK and Gas Forum for an amendment proposal to the Network Codes on Capacity Allocation Mechanisms ('CAM NC') and Balancing ('BAL NC'). The proposed amendment would allow the UK to derogate from the obligation of adopting the Gas Day as defined by Article 3(7) of the CAM NC.

This request will be dealt with according to the procedure explained in the Agency's Guidance on the Evaluation Procedure for Network Code Amendment Proposals (Director Decision 2013-23) under Article 7 of the Electricity and Gas Regulations.

The above Guidance foresees both periodic and *ad-hoc* reviews of Network Codes, where periodic reviews are the rule and ad-hoc procedures are provided for exceptional cases that require expeditious action from the Agency. Both procedures are aimed to react to changing market circumstances and/ or to situations that have not been foreseen during the network code development process. Therefore any proposal for amendment, either periodic or ad-hoc, should be well founded and argued, so that it can be easily understood by the Agency and stakeholders and consulted by the market. The Agency, as the Guidance foresees, has the responsibility to dismiss those requests where it is clear that they have little or no chance to

be considered further in the process, so as to avoid that both the Agency and stakeholders unnecessarily devote resources on amendment proposals.

Where the request considered is incomplete or unclear, the Agency, depending on the circumstances, may either refer it back to the proposers and request further clarification, or accept the proposal subject to conditions and further clarifications. Depending on the scope and the degree of complexity of the proposal at hand, the overall duration of an ad-hoc procedure should in principle not exceed three to four months from the starting of the procedure.

Hence, as a first step, the Agency needs to check the formal and legal admissibility of the Oil and Gas UK and Gas Forum proposal, verifying whether the proposer is an “interested party” and whether the request merits expeditious treatment. In order to be able to do so, the Agency would like to address the following questions to the proposers, in order better to understand why the legally foreseen deadline of 1 October 2015 for the introduction of the new Gas Day should be considered as “over-ambitious and unachievable”.

1. Concerning the urgency and the merits of the proposal

- 1.1. The CAM Gas Day harmonisation has been discussed during the development process of the Capacity Allocation Mechanisms Network Code, and as such the topic cannot be considered a new one. Changes to it impact legitimate expectations of other stakeholders working on implementation. Therefore, please explain which are, in your view, the new circumstances, in particular those not identified during the network code development process, according to which the amendment proposal needs to be considered by the Agency.
- 1.2. With reference to section 8 and the Appendix of the proposal annexed to your letter,
 - 1.2.1. Which other solutions identified so far could allow to coexistence of two Gas Days in the UK and thus avoid the need to amend the CAM NC?
 - 1.2.2. For which reasons are these options not put forward and explored in greater detail by the proposers? Please provide the Agency with a detailed presentation of those alternative solutions, including a description of the cost imposed on the various players involved (e.g. producers, on-shore operators, TSO, etc.) in the different solutions.
- 1.3. Would a longer transition period to the CAM Gas Day facilitate its implementation by the upstream industry in the UK?
 - 1.3.1. How could such a transition lower the risk on the NBP integrity and liquidity and contribute to cost saving or potentially spreading the costs over a longer period?
 - 1.3.2. What would be the foreseen length of such delay and which activities would take place during this transition period?
 - 1.3.3. Could you explain, by seeking industry input, the impact(s) of any such delay on other industry parties, such as National Grid and downstream shippers (i.e. network users)?
- 1.4. What kind of activities and measures relating to its implementation are the most difficult for the UK upstream industry? Please explain.

2. Concerning impact on trade and the internal market

- 2.1. It is argued that the amendment proposal has little impact on the continental trade due to the special functioning of the interconnectors which have well managed, in the view of the proposers, the Gas Day differences in the past. Did the proposers check whether traders flowing gas from Belgium and the Netherlands to the UK consider that a non-harmonised Gas Day is not problematic? Please provide more evidence on this issue.
- 2.2. The harmonised Gas Day is a step forward towards creating an internal gas market. The proposers suggest the opposite arguing that benefits are not discernable, while claiming a minor impact of the amendment proposal on the rest of the internal market.
 - 2.2.1. Please provide evidence that these effects are not reached.
 - 2.2.2. Please provide evidence showing that potentially negative financial effects on other players in the European market, including shippers from continental Europe, would be offset by the benefits of the amendment.
 - 2.2.3. Please quantify the claimed benefits where possible.
- 2.3. Please indicate how the amendment will not prevent IUK, BBL or other TSOs from complying with CAM NC and other network codes provisions, in particular those related to capacity bundling.

3. Concerning the parties and their interest

- 3.1. Concerning the parties, the Agency would like to identify better the proposers, in particular which members of the two associations uphold the amendment proposals. The Agency would like to get a better understanding of the individual interests of the companies affected, for example whether only gas traders are affected and to what extent they are concerned.
 - 3.1.1. Please provide a dedicated and specific analysis of the companies within Oil & Gas UK and Gas Forum who proposed and supported the proposal.
 - 3.1.2. Please specify the type of problems encountered by them (individually or by category, as the case may be).
- 3.2. The applicants make references to losses and damages. Please substantiate with greater details and clear evidence the likelihood that those losses and damages may indeed occur, as well as the amounts of losses and damages at risk. (See also point 3(1)).
- 3.3. The Gas Day provision imposes an obligation on the TSOs. The proposers claim that gas from upstream producers enters the downstream network and data on this gas is provided for balancing purposes, thus the need for the upstream industry to harmonise Gas Days with downstream or find a way of managing the difference. What are the margins (technical, financial) within which producers could still accept the CAM Gas Day? (This relates to possible alternatives that could be considered under point 1.2).

3.4. Please substantiate why the upstream companies would be differently affected by the new Gas Day as compared to the downstream ones? In doing so, please specify what are the exact circumstances which make changes on your side more cumbersome. Please include a comparison with upstream players from other countries in the European gas market.

The Guidance foresees that the Agency involve ENTSOG at an early stage in the evaluation process of amendment proposals. The Agency therefore would like to ask the proposers to either notify ENTSOG directly or allow the Agency to share the parties' submission with ENTSOG. If proposers prefer the latter, they are invited to notify the Agency about their decision by **10 October 2014**.

The Agency invites the proposers to provide the requested information by **24 October 2014**. With respect to both your proposal and your answer to this letter, please indicate and, where relevant, justify whether you consider the information provided as confidential. In the latter case, please provide a non-confidential version of your submissions.

Please note that at this stage, the Agency is collecting information to decide whether the case would be admissible for an ad-hoc amendment process.

The Agency does not exclude that further information is requested from the parties at a later stage, provided that the Agency considered, following receipt of OGUK/Gas Forum's response to this letter, that the proposal is admissible and could proceed to its assessment. In that case, the Agency may need to request more detailed information to prepare its full evaluation and launch the public consultation. That phase would focus on a technical and quantitative analysis, including cost-benefit analysis of the amendment request, a detailed analysis on the NBP liquidity and potential impact on future capacity bundling at the UK borders, as well on the impact analysis on continental markets and trades.

In case you have any questions about this letter, please contact Mrs. Csilla Bartok, (csilla.bartok@acer.europa.eu; Tel: +386 820 53 396).

Yours sincerely,


Alberto Pototschnig



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