

**ExxonMobil Gas Marketing Europe Limited**  
MP 41, ExxonMobil House  
Ermyn Way  
Leatherhead  
Surrey KT22 8UX  
01372 223166 Telephone  
01372 223160 Facsimile  
ian.r.trickle@exxonmobil.com

**Ian Trickle**  
Europe Regulatory Advisor

**ExxonMobil**  
*Gas & Power  
Marketing*

11 September 2009

John Bradley  
Joint Office of Gas Transporters  
First Floor South  
31 Homer Raod  
Solihull  
West Midlands  
B91 3LT

Modification Proposal 0262 -  
Treatment of Capacity Affected  
by Force Majeure

Dear John,

ExxonMobil Gas Marketing Europe Ltd (EMGME) welcomes the opportunity to comment on this modification.

### **Summary**

ExxonMobil firmly supports the principle that NGG are promoting via this proposal – namely to establish a minimum appropriate level of compensation for holders of System Entry or Exit capacity to the extent that such holders are prevented from being able to use that capacity for reasons of Force Majeure claimed by NGG.

Our support for implementation of this proposal should however not be interpreted as meaning that we believe this is an adequate solution. In many such cases it will be a wholly inadequate market solution both for affected holders of System Capacity and indeed for all other shippers who are not affected by the constraints.

We continue to trust that NGG is taking all necessary and reasonable steps to remove those transmission constraints notified as Force Majeure and that Ofgem are also taking an active interest in assisting NGG to that end and/or are considering such mechanisms and incentives that can improve or ensure confidence of appropriate behaviour. As long as such actions or mechanisms remain largely opaque or absent, Ofgem and NGG risk being accused of contributing to a less secure gas supply on those days where gas that could flow in response to market signals is prevented from flowing. A positive step that NGG should consider is the use of a routine forum to update shippers on the actions they are taking to overcome those circumstances that have led to the notification of Force Majeure constraint.

Registered in England  
Number 2517230  
Registered Office:  
ExxonMobil House, Ermyn Way  
Leatherhead, Surrey KT22 8UX

An **ExxonMobil** Subsidiary

For avoidance of any doubt, our support for implementation of this proposal should not be taken as acceptance that the current notices of NGG Force Majeure are valid.

### **Relevant Objectives**

We agree with NGG's assessment that implementation of the modification would be consistent with furthering the relevant objectives of improving the efficient, economic operation of the pipeline and improving effective competition between relevant shippers. This must be the case since the incentive of a shipper to book capacity at all is completely undermined as long as there is any potential risk that he may receive neither service nor compensation.

### **Interpretation**

It is important with this modification, as with any modification, that the legal text is written in a way that seeks to limit scope for alternative interpretations. The basis of the modification has been discussed at two transmission workstreams and we hope that the principle involved is clear to all shippers.

There are however two areas where we would seek confirmation of the following interpretation from NGG as they proceed to Modification Report.

1. That the legal text as currently drafted should be interpreted so that the capacity a User is obliged to surrender at zero charge (proposed clause 2.8.10) will not be greater than the quantity of capacity for which a User receives a rebate (Clause 2.15)
2. That the quantity of the User's capacity holding on which the rebate is calculated is the amount before any surrender.
3. That references to the Affected User are to the party who has first purchased capacity from NGG, disregarding subsequent transfers.

We trust that you find these comments constructive and would be happy to clarify anything that may be unclear.

Yours sincerely



Ian Trickle