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Tim Davis
Code Administrator
Joint Office of Gas Transporters

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0349: Introduction of a Force
Majeure Capacity Management
Agreement

Dear Tim,

ExxonMobil Gas Marketing Europe Limited (EMGME) welcomes the opportunity to comment on the above modification proposal.

EMGME supports this proposal which in essence is a scheme that will limit shippers' obligations to pay for System Entry Capacity to the level that is made available from National Grid Gas. We have considered this proposal in terms of its ability to overcome the concerns expressed by Ofgem at the time of their rejection of an earlier modification proposal - 0262 "Treatment of Capacity Affected by Force Majeure".

Background – Modification Proposal 0262

In relation to proposal 0262 Ofgem raised the following concerns:

1. Ofgem considered that the relevant objective under Standard Special Condition A11.1 (a) of the Gas Transporters Licence (the efficient and economic operation of the pipeline system to which this licence relates), was not better facilitated by proposal 0262 for the specific reasons that it *"would weaken the incentive on affected shippers to challenge the legitimacy of a FM notice. Therefore, there is a risk that implementation may serve to lower the hurdle applied by NGG in declaring an FM event and could lead to more frequent use of the FM mechanism and a slower resolution of FM events in circumstances when a FM has been declared. If such behaviour were to be seen, it would also serve to weaken the buyback incentive on NGG"*.
2. In relation to Standard Special Condition A11.1 (d), Ofgem considered that competition between shippers may not be enhanced noting *"...we remain unconvinced that overall this objective is better facilitated by the implementation of the modification"*. Ofgem's conclusion here appeared to have been influenced by the fact

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that NGG's proposal included recovery of costs of capacity rebate through general commodity charges affecting exit as well as entry shippers.

Consequently Ofgem rejected the proposal on the basis that the transfer of FM risk was not in the overall interests of consumers.

EMGME Views on Modification Proposal 0349

We believe that this proposal substantially overcomes the concerns expressed by Ofgem in its rejection of modification proposal 0262 and that the terms of proposal 0349 can now be argued to meet the relevant objectives expressed under Standard Special Conditions A.1.11(a) and A1.11.(d) of National Grid's Gas Transporters Licence.

The revised proposal provides for the same level of capacity charge rebate to Affected Shippers but employs flexible Forward Capacity Option Arrangements to manage FM related constraints more efficiently; the proposal retains or enhances those benefits acknowledged by Ofgem in its decision on proposal 0262 but significantly the new proposal represents an improvement on modification proposal 0262 in so far as:

- (a) The costs of the rebate are treated as constraint management costs routed via the buyback incentive, hence exposing NGG to a 50% cost share and ensuring an incentive for NGG to continue efforts to avoid or overcome FM as opposed to providing an incentive for NGG to seek to use FM provisions more frequently.
- (b) Consumer exposure to inefficiencies in entry capacity constraint management is eliminated and any costs borne are reduced.
- (c) Capacity rebate costs that are not paid by NGG are shared amongst entry shippers only, arguably distancing consumers further from the effects of the additional costs.
- (d) The scheme provides, in effect, for an automatic FM challenge mechanism – i.e. any FM called by NGG under the current terms of the UNC is automatically challenged through imposition of a cost share incentive for NGG to overcome the FM.

We trust that these views will be taken into account. Please do not hesitate to contact us should any clarification be required.



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