

12 November 2010

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Dear [REDACTED]

**Re: Centrica Storage Limited response to DECC Consultation on the provision of third party access to licence exempt electricity and gas networks (ref. UEN 10D/818)**

Centrica Storage Ltd (CSL) welcomes the opportunity to participate in the debate on the implementation of the 3<sup>rd</sup> European Energy Package into UK legislation.

So far, we have appreciated DECC's effort to engage with the industry in this complex process and we would like to continue to offer our help in making it more effective and efficient.

CSL generally supports the approach proposed by DECC to deal with this slightly technical issue arising from the ECJ's ruling in Citiworks. However, CSL believes that it might be possible to clarify that certain activities associated with storage operations do not fall within the definition of distribution.

We note that current legislation does not clearly distinguish between distribution (as a primary activity) and situations where conveyance of gas through a pipeline is de minimis and ancillary to other operations. Due to the fact that the 3<sup>rd</sup> Gas Directive provides different requirements to different categories of operators, we believe that a proper distinction should be included (or clarified) in UK legislation to effectively address the requirements to the relevant operators.

The Easington terminal (currently operated by CSL) has been exempted from holding a gas transporter's licence under the Gas Act 1986<sup>1</sup>. The purpose of the conveyance of gas by CSL at the Easington terminal is to deliver (receive) gas withdrawn (injected) from (to) the offshore gas storage facility of Rough into (from) the National Transmission System (NTS).

Such activity is "ancillary"<sup>2</sup> to the main activity of the "gas storage service". In CSL's view, the terminal should not be subject to TPA requirements for distribution system operators because it does not carry out a "distribution activity"<sup>3</sup>. As a gas storage

<sup>1</sup> The Gas Act 1986 (Exemptions) (No. 2) Order 1996

<sup>2</sup> Directive 2009/73/EC (article 2.14) defines as "ancillary service" any "service necessary for access to and the operation of a storage facility".

<sup>3</sup> Directive 2009/73/EC (article 2.3) defines a "distribution activity" as "the transport of natural gas through local or regional pipeline networks with a view to its delivery to customers, but not including supply".

operator, CSL will be subject to TPA requirements for Storage Service Operators (SSO), as prescribed in the relevant section of the 3<sup>rd</sup> Directive<sup>4</sup>.

In conclusion, we believe that if this distinction among different operators, as defined in article 2 of the 3<sup>rd</sup> Directive, were reflected in UK legislation then the issue addressed in the consultation document would be substantially resolved. Such an approach would avoid any uncertainties that might otherwise exist in the application of different requirements to different gas operators (including exempted ones).

We hope that you have found these comments useful and please do not hesitate in contacting us if you wish to discuss the response further.

Your sincerely,

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<sup>4</sup> Directive 2009/73/EC (article 33)