

Mutual Energy Response to CER Consultation (CER/12/023) “South-North Gas Pipeline and Compliance with EU Law”

Introduction

Mutual Energy Limited (“**Mutual Energy**” or “**MEL**”) is grateful to have the opportunity to respond to this consultation on behalf of its two wholly owned subsidiaries (Premier Transmission Limited (“**PTL**”) and Belfast Gas Transmission Limited (“**BGTL**”)) which hold licences to convey gas issued by the Northern Ireland Authority for Utility Regulation, granted pursuant to the Gas (Northern Ireland) Order 1996.

PTL is the owner and operator of the Scotland to Northern Ireland natural gas transmission pipeline (the “**SNIP**”). PTL also operates the Belfast Gas Transmission Pipeline (the “**BGTP**”) on behalf of BGTL.

Consultation Questions

We respond below to the specific questions which are raised in the Policy Consultation:

Question 1: Where should the Relevant Point on the South-North Pipeline be located, at Gormanston or at the border?

Regulation EC No 715/2009 (the “**Regulation**”) states the following at Annex 1, paragraph 3.2(1):

“(1) Relevant Points shall include at least:

- (a) all entry and exit points to and from a transmission network operated by a transmission system operator, with the exception of exit points connected to a single final customer, and with the exception of entry points linked directly to a production facility of a single producer that is located within the EU;*
- (b) all entry and exit points connecting balancing zones of transmission system operators.”*

Considering the South North pipeline the Relevant Point is by definition at Gormanston as this is the physical point at which the BGE (UK) transmission system connects to the BGE transmission system which is operated by Gaslink, as noted at paragraph 3.2.1(a) of the Regulation. Gormanston is also the point at which the two balancing zones connect, as noted at paragraph 3.2.1(b) of the Regulation, and the point at which the AGI and meter are positioned to allow the two transmission systems to connect. Therefore, Gormanston is the point which fulfils the criteria of the legislation. We do not believe that, given the clarity provided by the legislation in relation to this matter, it would be legal *not* to allocate Gormanston as a Relevant Point.

In the consultation document, CER has argued that, legally, the Relevant Point could instead be placed at the jurisdictional border, if it can be shown that this alternative point could equally serve the same purpose and better promote seamless cross border trade in gas without undermining the Regulation or adversely affecting the interests of Shippers or customers in either jurisdiction. Under the Regulation, an arbitrary point on the SNP at the border does not have to be considered a Relevant Point as it does not constitute an entry or exit point from the transmission networks and is not the point at which the balancing zones connect and therefore does not fall under the criteria set out in the Regulation. Gormanston does meet the criteria and designating a point at the border would not remove the fact that Gormanston is by definition a relevant point.

The Regulation is clear about the definition of a 'Relevant Point' which avoids the need for interpretation of its underlying objectives. We believe that ignoring the criteria for a Relevant Point as included in the Regulation would constitute a non-compliant solution and would increase the risk of further infringement or fines being imposed by the EU. Given that Gormanston adequately meets a literal interpretation of the Regulation, we see no reason why it should not be considered the Relevant Point on the SNP.

Question 2: What Code Arrangements should apply to the section of the SNP located in the Irish jurisdiction, the BGE (UK) Code or the Gaslink Code?

We have no particular preferences however we believe that whoever is responsible for paying for the costs of the section of the SNP in RoI should have the primary say in how it is to be run/ regulated. This principle currently applies in Scotland which provides a useful and working precedent. However we do understand the concern that shippers/ customers in a particular jurisdiction could be subject to decisions made by a regulator in another jurisdiction who has no direct legislative objective to protect that shipper/ customers interests. This is an issue in Scotland at present and it will be interesting to see how the issue is addressed for SNP located in RoI and if any new solutions could be equally applied in Scotland.

Question 3: Are there any other Code options which should be considered?

None identified.