Mutual Energy Response to CER Consultation (CER/12/066) “South-North Gas Pipeline and Compliance with EU Law: Tariffing arrangements for flows to and from the Gaslink System”

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.

General

We found the paper extremely confusing even though we are quite familiar with required revenues and tariffing regimes on pipelines. It is clearly predictable that shippers who potentially might be interested in booking SNP exit capacity into NI might not be completely familiar with the current tariffing regime on the ICs or the previous thinking carried out by the CER in this area. It is regrettable that the paper was not more thorough and clear in providing reasoned arguments for proposals, and worked examples including indicative tariffs would have been very useful. An accompanying industry forum for interested shippers would also have been very useful for such a complex, confusing and unusual proposal. It would also be useful to know if this type of cost allocation proposed exists in Europe or elsewhere in the world, as we are not aware of any such precedent.

Consequently our full response must be caveated because we did not have a clear understanding of much of what was presented in the paper.

Consultation Response

1. *Interconnector (IC) Entry Tariff*

The paper notes that the CER intends to apply the standard approved IC entry tariff (which at the moment includes the costs of the full interconnector system, ie IC1 as well as IC2) to any gas moving into the SNP from the Gaslink System on the basis that the SNP is supplied from IC2 only (in the context of south to north flows) and therefore Interconnector (IC) entry capacity will be required to be held by shippers in order to move gas into the SNP.

However the Third Package Regulation 715/2009 Article 13 states that “tariffs for network users shall be non-discriminatory” and “the Member States shall ensure that...network charges shall not be calculated on the basis of contract paths”. By linking exit at SNP with IC Entry as CER proposes this is effectively creating a contract path which is in direct contravention of Article 13, and is at odds with the entry-exit system operated by Gaslink.

Whilst the gas molecules flowing into South North may be physically supplied via the IC, this is not relevant in terms of the entry-exit tariff model.

Paragraph 1.1 of ACER’s Consultation on the Scope and Main Policy Options for Framework Guidelines on Harmonised Transmission Tariff Structures explicitly requires the decoupling of entry-exit charges and states clearly that “entry and exit tariffs should not differ on the basis of where the gas is transported to and from”. This precludes the creation of such a contract path.

This contract path also prevents shippers who might wish to enter the Gaslink System from an alternative entry point and exit on the SNP from being able to do so without paying for more entry capacity than they need, and is therefore discriminatory.

We also note that this approach is in direct opposition to CER’s recent conclusion, in The Decision Paper on the Regulatory Treatment of the BGÉ Interconnectors and Future Gas Transmission Tariff Regime, that “the ICs will be treated as an integral part of the transmission system no different to other assets”.

2. *Tariff for Exit from the Gaslink System (into the SNP)*

a. *Required revenue apportionment*

Given the recent CER consultation on Mitigation Measures to address the Potential Capacity Constraints at the Moffat Entry Point in 2013/14 (CER/11/206) there is some uncertainty as to whether the full capacity of the ICs would be available on a peak day. Given that this revenue requirement is based on a calculation of standby costs it is difficult to see how Northern Ireland can be confident that this cost allocation can be justified if the basis for it is providing security of supply which can’t actually be delivered.

SWSOS capacity is limited to 31mscm currently, with 8.08mscm being reserved for the use of Northern Ireland shippers via the SNIP. If this 5mscm proposed were to be available on standby to Northern Ireland via SNP every day of the year then ROI would need to be limited to 23mscm, which we do not believe is CERs intention.

Alternatively, on the understanding that the ROI Moffat capacity is nearly fully booked, and following the assumed logic that is presented in the paper (i.e. SNP exit capacity must be matched with a corresponding IC entry capacity booking) then capacity at the SNP exit point would only be available if that shipper made a corresponding reduction of capacity at the NI Moffat entry point. It therefore appears that the charge is being set so as to charge for capacity that is only accessible as standby capacity in the event that Northern Ireland shippers direct bookings at Moffat reduce. The paper does not mention this issue.

Given the capacity constraints upstream it is difficult to ascertain why no adjustment to the required revenue charged at SNP has been made to take account of the likelihood that this capacity would not be available every day.

The paper states that 5mscm may be called upon by users of the SNP but does not explain how this number was set. Is this the maximum that can be delivered through the meter at Gormanston and if so does the CER propose that this figure would change if the meter was changed or compression added?

We do not understand CER's logic for the required revenue at SNP exit. Surely all the costs of the IC's, including security of supply are currently included in the Moffat entry required revenue. Is there an intention to reduce the Moffat entry required revenue by the determined SNP required revenue? The paper is silent on this. If that intention does not exist then following the logic in the paper a shipper exiting at the SNP exit point will already have paid their share of the required revenue for all of the IC's, including any security of supply benefit, through the Moffat Entry tariff, unless some form of rebate is planned which hasn't been mentioned. Is it the intention to double charge an SNP exit point user for the security benefit to NI and over recover part of the IC revenue? Even if the Moffat Entry required revenue is reduced by the SNP required revenue then SNP shippers would still end up paying the determined NI share of the standby costs on exit at SNP plus a share of the ROI standby costs through the entry tariff paid at Moffat, albeit a lower share than if the Moffat Entry required revenue were not reduced. The paper raises more questions than it answers in this regard.

In respect of determining the standby cost in the first instance the use of the percentage of the total capacity available does not necessarily seem to be an appropriate driver for how the costs arise – no justification for the use of this has been provided.

b. Tariff methodology

The proposals for tariffing methodology for exit from the Gaslink System to the SNP are very unclear and confusing and therefore it is difficult to interpret what exactly is proposed.

It would appear that in section 4.1 if annual, monthly and daily capacity were all forecast then 3 times the required revenue would be recovered if actual capacity bookings were to match forecasts, as the full required revenue would be recovered from the sale of each of the capacity products. Surely this cannot be intentional.

There also appears to be no recognition that a prohibitively expensive tariff could be created where there are small volumes booked. The CER are well aware of the implications of such a scenario as it has been dealing with just that in various consultations regarding the treatment of the Moffat entry tariff when other sources of gas (Corrib & SLNG) cause Moffat entry booking to decrease. It is surprising therefore that this matter has not been addressed in the paper, unless of course we may have misunderstood the approach.

The calculation of the default daily tariff in step 7 of section 4.1 is even less clear. For the default daily capacity tariff this is calculated as 90% of the required revenue divided by "Full capacity [5 mscm] per day * 10". The inclusion of 10 in this formula appears to come from the assumption that 10 days capacity would be booked for 10 days in a year. There is no indication of how this assumption arose or whether this formula might change were that proved to be inappropriate. It is also not terribly clear how this would be calculated in this instance e.g. is it 1.8% (i.e. 90%/(5*10)) of the required revenue to be charged per mscm? And is this required revenue figure that calculated for the SNP in section 3 or the total IC2 required revenue?

Step 8 then specifies that appropriate monthly and daily multipliers would then be applied but there is no indication of what such appropriate multipliers might be, therefore it is very difficult to ascertain what level of costs might need to be paid in order to use one unit of this capacity.

Given the level of ambiguity in these proposals it is therefore impossible to comment on the appropriateness of the tariffs. It should be noted that, ignoring the question of whether the required revenue to be recovered from the SNP is indeed justifiable in the first place, it seems inappropriate that the required revenue might be recovered several times over were all types of capacity to be forecast and booked.

c. *Over/Under Recoveries*

The paper discusses how under-recoveries will be addressed, either: carried forward to the SNP exit revenue requirement; smeared across all exits; or remunerated in full by the postalised Gaslink exit requirement. Assuming the required revenue allocated to the SNIP exit point is subtracted from the TSOs total required revenue (which is not made clear in the paper) then by carrying these under-recoveries forward into the SNP exit revenue this could result in significant uncertainty for the TSO, as it could potentially be many years before this would be used and this would have a large cash flow impact. Under this option it would also be hard to justify several years' worth of charge to potentially one shipper who may not have been operating in the previous years and therefore wouldn't have accrued such a benefit. Surely this would also contravene the recent EU advice which states "that it is not possible to place an ongoing charge on a system user as a pre-condition for access to the system".

It is noted that there is no discussion of how over recoveries would be dealt with, which is clearly a concern if the tariff methodology is intended to actually enable over-recovery.

d. *TSO-TSO arrangements*

We would note that in the section on the Status of Transmission System Operators in the EC advice appended to the consultation it is stated that access by transmission system operators (TSOs) should not be linked to the payment of regulatory approved tariffs. Any particular operational arrangements between TSOs therefore should not be subject to this tariff and we have assumed that this is indeed your intention. We would request that you confirm that this is the case.

Consequently our comments in this response relate only to the charges which a shipper might be exposed to at the SNP exit point and not any TSO to TSO arrangements that might develop subsequently.

Summary

The paper is unclear and confusing. Our comments are based on our interpretation and assumptions on important matters. The CER should consider issuing a further consultation which clarifies the thinking proffered in the current consultation paper and allows industry to respond in an informed way.