**ExxonMobil International Limited**
MP 42, ExxonMobil House
Ermyn Way
Leatherhead
Surrey KT22 8UX
+44 7 590 601 602 Telephone
+44 1372 22 3160 Facsimile
axel.scheuer@exxonmobil.com

**Axel Scheuer**
Advisor - Global Regulatory

ExxonMobil
Gas & Power Marketing

19 February 2010

European Regulators' Group for Electricity and Gas
Council of European Energy Regulators ASBL
28 rue le Titien
1000 Bruxelles

fg_pilot_gas@ergeg.org

ERGEG Consultation - Draft pilot Framework Guidelines on Capacity Allocation

Dear Sir/Madam,

ExxonMobil is a longstanding participant in the European gas business involved across the supply value chain including upstream production, storage and processing, LNG receiving terminals and marketing. As such we appreciate the opportunity to comment on the proposed ERGEG pilot Framework Guideline on capacity allocation.

ExxonMobil welcomes initiatives that promote cross-border gas market integration in order to facilitate cross-border trade, increase market liquidity and enhance security of supply. We support measures which are market based and ensure a level playing field for all market players and aim at the harmonization of EU regulation.

In this context we appreciate the Framework Guidelines on capacity allocation as an important step towards a fully integrated EU gas market. Many of the proposed measures will facilitate further market integration, such as the TSO obligations to cooperate; the standardization of communication procedures; the joint determination of capacity and harmonisation of capacity allocation by adjacent TSOs; the standardisation of capacity products (incl. secondary market products) at all points; EU wide booking windows and the establishment of web-based platforms for all transactions.

The target model of 'coupled' gas markets in conjunction with implicit capacity auctions has our particular interest and we will stay actively engaged in further steps towards this model.

We are concerned about the potential implications of the proposed measures on existing transport contracts as well as on cross-border purchase and sales contracts. Sanctity of contracts is essential for continued investment and long-term security of supply. We therefore urge that existing contracts are respected and that measures which could affect these contracts are applied to new contracts only.

Scope of the Arrangements (reference to draft Framework Guidelines: F1.1)
The list of entry points, which are excluded from the scope of the Framework Guidelines should mention that entry points from gas production facilities and upstream entry points are also not subject to the Guideline. This follows inter alia from recital 16 of Gas Regulation 715/2009: *"The network codes ... are not intended to replace the necessary national network codes for non cross-border issues".*

Adaptation of existing contracts (F1.2)
The requirement to adapt existing contracts to new legally binding rules should not be used to change existing capacity reservations, or otherwise affect the commercial value of existing contracts. Sanctity of contract is an important principle in the gas industry to ensure a sound investment climate that is pivotal to long term security of supply. For this reason we do not support the suggestion that existing contracts should be revised to reduce firm capacity entitlements.

TSO cooperation (F1.3)
ExxonMobil support that TSOs are encouraged to cooperate with adjacent TSOs aimed at providing efficient cross-border trade and to maximise available cross-border capacity. This includes the exchange of relevant data and the harmonisation of capacity products and capacity allocation at cross-border points.

Contracts, codes and communication procedures (F1.4)
While ExxonMobil support harmonised transport contracts and harmonised conditions for network access, we believe this to be outside the scope of these Framework Guidelines of Capacity Allocation. When pursued, this harmonisation effort should be applied on a forward basis only and not be applied to existing transport contracts. Application to existing contracts would be disproportionate to the objective and disturb the balance between buyer and seller.

Capacity products (F2.1 and F2.2)
ExxonMobil support that the network code shall define a small set of standardised capacity products without overlap and proportionate tariffs for short term and long term products. This would in our view facilitate the (secondary) capacity market and cross-border trade.
We believe the scope of the Framework Guidelines should be limited to the allocation of available capacity that is firm, in accordance with Article 2 (20) and 2 (18) of the Gas Regulation 715/2009. Interruptible capacity remains in our view a key alternative to firm UIOLI concepts but should be covered under congestion-management rules.

Breakdown and offer of capacity products (F2.3)
The possibility for shippers to book multi-year capacity products must continue to exist to underpin long term delivery contracts. Setting aside a share of the available capacity for short term use should in our view be used with extreme caution. When this concept is applied to open-season processes it would lead to over-investment and additional costs to consumers.
We see some merit in phasing the amount of capacity that is offered under an auction process for (multi-)year contracts, so that potential users know there will still be some capacity left that can be acquired through monthly auctions. This would allow users to better tune capacity bookings with their actual requirements. With regard to the capacity set aside for future allocation the Framework Guidelines are too prescriptive and lead to potentially cumbersome regulatory approval procedures, this should be avoided.

Furthermore we believe that there are more effective and efficient ways than short term UIOLI procedures to optimise network utilisation that should also be considered, such as implicit auctions of short term available capacity to enable ‘market coupling’.

Cross-border products (F2.4)
Combination and bundling of exit capacity from one zone and entry capacity into the adjacent zone to create a hub-to-hub service is supported. However, this should not lead to a limitation of the possibility to trade natural gas at the border. Existing import/export contracts generally specify that gas is delivered at the border where the custody transfer facilities are located. Forced changes to these contracts, such as moving the delivery point to a hub, could have significant commercial consequences.
Moreover, we believe that a limitation of trade at the border would clearly be outside the scope of the Framework Guidelines, and even be in conflict with inter alia recital 19 of the Gas Regulation 715/2009: *"... to give network users the freedom to book entry and exit capacity independently..."* and its Article 13.1: *"Tariffs for network users shall be non-discriminatory and set separately for every entry point into or exit point out of the transmission system"*.

Primary capacity allocation (F3)
We support the idea that TSOs offer capacity on a regular basis for all firm products, and agree that – in general – an auction is the preferred mechanism to allocate spare capacity. Also we welcome that ERGEG has addressed the potential allocation by means of implicit auctions to enable market coupling concepts. However, attention must be paid when designing auction terms to avoid unintended adverse effects. Lessons should be drawn from the experience with auctions in the UK gas market. We do not believe that auction terms should be specified in the Framework Guidelines, but recommend that Entsog designs detailed auction terms in consultation with stakeholders.

Re-marketing booked capacity (F3.4)
Although we welcome initiatives to facilitate trade of capacity rights on the secondary market, these should be conducted on a voluntary basis. Proposals to regulate the secondary market are outside the scope of the Framework Guidelines and the network codes.

Booking platforms (F3.5)
We welcome initiatives to create joint booking platforms for allocation of primary capacity and trading of secondary capacity. However, the bilateral trading of secondary capacity products shall continue to be allowed.

For further information, or if you wish to discuss the above, please contact Axel Scheuer (+44 7 590 601 602, axel.scheuer@exxonmobil.com) or Kees Bouwens (+31 76 529 2228, kees.bouwens@exxonmobil.com).

Kind regards,