

ExxonMobil International Limited
St. Catherine's House
2 Kingsway, P. O. Box 394
London WC2B 6WG
+44 20 7412 2734 Telephone
+44 20 7412 2470 Facsimile
peter.p.clarke@exxonmobil.com

Peter P. Clarke
Manager, Europe
Transportation & Regulatory

ExxonMobil
*Gas & Power
Marketing*

23 January 2006

Sir John Mogg
ERGEG
Council of European Energy Regulators
28 rue le Titien,
1000 - B
Brussels

Roadmap for a competitive single
gas market in Europe
E05-SEM-13-03

Dear Sir John,

ExxonMobil International Limited welcomes the opportunity to respond to ERGEG's consultation on the Roadmap for a single gas market for Europe. EMIL provides advisory and other services to members of the ExxonMobil group of companies participating in various segments of the gas business within Europe.

Strategic Importance of Europe in a Global Market

The Roadmap document acknowledges that the wider strategic considerations such as, the political framework necessary to facilitate commercial agreements for supplying gas between producer countries outside Europe, are substantially outside ERGEG's scope in this paper. We would encourage ERGEG to recognise that Europe will have to compete in the global market for access to future gas supplies. ERGEG should therefore be aware of the potential pitfall of being too inwardly focussed and developing an excessive regulatory or bureaucratic regime which may actually deter suppliers who then choose to move their volumes to other markets away from Europe.

In an effective market it is essential that sellers and buyers should have the freedom to enter into contracts on terms that are freely negotiated between the parties that meet their respective needs. They should be free to choose which pricing mechanism they prefer, whether that be indexation to gas, where sufficient pricing information is available or, to competing oil products in the absence of adequate price information. The parties should be free to choose the level and duration of supply security that they prefer, be they long-term, short-term or 'spot' arrangements. In a fully liberalised market the participants are free to agree the commercial structure of their agreements to balance the risk and reward.

Registered in England
Number: 3834848
Registered Office:
ExxonMobil House, Ermyrn Way
Leatherhead, Surrey KT22 8UX

An **ExxonMobil** Subsidiary

Overall it is imperative that Europe remains an attractive environment for the future investment in infrastructure required to bring much needed supplies to the demand centres within Europe. To encourage investment a stable and predictable regulatory regime is essential for the investors to evaluate the level of risk that their long term projects are likely to experience. A significant area of risk to this investment is any potential introduction of unnecessary limits to the duration of any infrastructure access contracts or onward sales contract.

The Regulators role in these markets is crucial since their actions, or inactions, are viewed with importance by the future investors in Europe. Regulators should be independent and operate within a clear framework which is objectively based to facilitate the function of the law and avoids a prescriptive, explicit process based mandate.

European Court of Justice Ruling C-17/03

We note with concern that the ERGEG Roadmap makes reference to the recent Court of Justice judgment in respect of certain Dutch electricity contracts. This is not the first reference to this case from regulators who appear to be suggesting that the judgment might support a challenge to certain legacy long-term gas contracts. We do not accept that the judgment has as wide an implication as the Roadmap or recent announcements from the regulatory community might imply. Our reading of the ECJ judgment is that it dealt with a very specific and limited set of facts - specifically, the case concerned an administrative objection to the adoption of part of the Dutch Electricity System Code and a finding that provisions within the Electricity Directive precluded national measures granting preferential capacity where such measures had not been authorized pursuant to a derogation. To suggest that a judgement on such a narrow, technical matter provides support for a wider challenge to long term contracts per se, is, we suggest, misleading. As such we would ask that ERGEG and regulators avoid making misleading references to this judgment in this way in future. We see nothing in the judgment that impacts existing contracts for booking of capacity in pipelines or the relationship between those contracting for such capacity.

Market Liquidity

In several places ERGEG appears to place a significant value on measuring the amount of liquidity by evaluating the churn rate and the number of players who buy and resell gas on a short term basis. We would contend that the emphasis should be on increasing the number of players who are willing to invest in new supplies and infrastructure capacity, not just traders at the hub who really only redistribute supply. The churn rate created by these new entrant reseller's is an indicator of liquidity, amongst several other measures, but is not the most important. In fact, increasing the market churn may only serve to increase the cost to the consumer as these new market entrants seek to make a margin on top of the commodity being bought and resold.

Gas and Capacity Release

There is reference to gas release programs as being an effective measure to offset the lack of gas available to new market entrants. Although there are many references to the use of such programs in the past we maintain that there is no demonstrable proof that these programs

alone were attributable to the many claims being made for their success. The unintended consequence of introduction of these programs is ultimately an increase in the level of risk that a future new investor will see in the market as he now has to consider if his contracts will be subject to a future unexpected change. We see this increased risk having a far greater impact than any of the unqualified benefits of a gas or capacity release.

Support for ERGEG's proposed building blocks

We agree that ERGEG's proposed "building blocks" of; supply-side competition (competing supplies of gas at the wholesale market), contractual flows being decoupled from physical flows, entry-exit tariff arrangements, liquid hub-based trading and fair non-discriminatory access to key services will be important elements in developing an effective competitive gas market in Europe.

Supply side competition is already improving with LNG becoming an increasingly important supply source. In its efforts to continue to attract new supplies and further improve wholesale competition, ERGEG should be careful not to establish practices that have unintended consequences. The fundamentals of stable, predictable environment, with, freedom to enter commercial arrangements with choice of duration, price indexation and supply risk; must be maintained.

The many very large projects that are now required to bring new supplies to Europe require long term investments that themselves will require long duration contracts for investment certainty. This point is accepted by Regulators. However, we recognise the concern that the long term nature of either the transport contract or the supply contract may affect competitiveness. We believe that competitiveness is fundamentally improved with new supplies. With effective UIOLI mechanisms and secondary capacity trading platforms for entry-exit systems, wholesale competition and liquidity will continue to develop and result, over time, with the de-coupling of physical and contractual flows.

Regional Initiatives

We support the view that there will be development of regional markets and are of a similar opinion to the regulators as to the likely regions where the markets will develop. However, the need for positive intervention is not so clear. The objective should remain to create the building blocks mentioned above and provide consistency of approach across the market. With the right framework in place the market, given time, will then develop the necessary contractual requirements to promote hub, and hub to hub, trading. Where this consistency is not yet achieved we would encourage the use of voluntary industry guidelines under the existing legislative framework before any further legislation is developed.

Information Provision

Finally, transparency of information is clearly important for the development of the market. It is appropriate that sufficient and timely information is provided that promotes market development. Care is required though, commercial confidentiality should be maintained where it is necessary and the costs of providing the information should always be tested alongside the demonstrable benefits.

23 January 2006

Page 4

Next Steps

Following this consultation and consistent with our views expressed above, ExxonMobil will continue to work with ERGEG (and appropriate study groups) on the development of the Roadmap. We believe a number of important issues will be highlighted through this process and that ERGEG's final proposals, developed taking into account the views obtained through this consultation, should be discussed and finally agreed between all market participants. The Madrid Forum may be an appropriate platform to reach this common position.

Should you wish to discuss our views further please do not hesitate to contact me or Chris Crane (e-mail: chris.crane@exxonmobil.com, Tel: +44 20 7412 4274)

Yours sincerely,



Peter P. Clarke