



6 January 2011

Ministry of Economic Affairs, Agriculture and Innovation
Attention of Mr. R.N. Jansen
Bezuidenhoutseweg 30
2594 AV The Hague, NL

Internet consultation
Decree cross-border capacity gas

By E-mail: R.N. Jansen@minez.nl

Dear Mr. Jansen,

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 highly appreciate the opportunity to comment on the proposed amendment of the regulation on gas tariff structures and conditions (Decree cross-border capacity gas).

General comments

ExxonMobil supports the Ministry's objective to improve the availability of cross-border transport capacity, in particular to make more firm short term capacity available, and to allocate (part of) this capacity through auctions. We acknowledge that the availability of firm short term cross-border capacity is important to establish a single (Northwest-) European wholesale gas market. We also support the allocation of available capacity through an auction process. Preferably the auction process would be designed to allocate capacity on both sides of the border in a single step.

The proposed § 3.5 deals with rules for cross-border capacity that may not comply with the minimum requirements set by the EU third package (Directive 2009/73 and Regulation 715/2009). While Member States can set more advanced targets we question whether the proposed amendments are effective in this respect and we offer some suggestions for enhancement.

The traditional 'open season' procedure needs to be revisited in view of Article 22 of Directive 2009/73 (the 10-year network development plan). One of the drawbacks of the open season procedure as applied today is that - as we understand - GTS is only allowed to invest on the basis of a firm long-term shipper commitment. This is reconfirmed in the proposed article 18a and may in fact limit availability of firm short term capacity. We suggest that the Ministry tries to agree with neighbouring countries on a market assessment process that allows the TSO to reserve a portion of the (new) capacity for short term services.

The proposed amendments aim to make short term capacity available by setting minimum targets to be achieved 'in due course' when existing contracts expire. We believe it would be more effective in the short term to oblige the TSO to buy-back capacity which network users wish to surrender.

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Detailed comments

Article 5a

In our view the procedure described in Articles 82 and 81c (2) of the Gas Act allows tariffs to be adjusted based on the difference between estimated and realised revenue. The proposed article 5a is therefore superfluous.

Article 18a

We suggest that the open season procedure allows for part of the cross border capacity to be reserved for short term contracts. This could be achieved by adding to 3b words like: *'waarbij een deel van de capaciteit kan worden gereserveerd voor contracten met een looptijd van een jaar of korter'*.

Article 18b

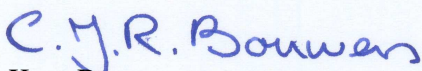
We suggest to add that in case of congestion the TSO will buy-back booked capacity which network users wish to surrender. This could be achieved by adding: *'5. De voorwaarden bevatten regels met betrekking tot het aankopen door de netbeheerder van capaciteit, in geval van congestie op een interconnectiepunt, van netgebruikers die bereid zijn capaciteit terug te geven.'*

Article 18c

In our view the rules specified under section (3) are ambiguous and we suggest deleting them.

We hope the foregoing comments prove useful in the development of the Decree cross-border capacity gas. For further information, or if you wish to discuss the above, please contact me on +31 76 529 2228 or kees.bouwens@exxonmobil.com.

Yours sincerely,



Kees Bouwens

Advisor, Europe Regulator