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Administrative officer
Helga Franse

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Ministerie van Economische Zaken, Landbouw en Innovatie
Attn.: De heer Ronald Jansen
r.n.jansen@minez.nl

Dear Mr. Jansen,

Statoil is the second biggest gas supplier to Europe and have been active in the supply of gas to other market parties, end-users and an active trader at the TTF for a number of years. To allow us to continue and even expand our activities in the Dutch market, access to this market is of great importance. Our position below will provide you with Statoil's view on the effect of the proposed changes on the market development and access opportunities of our company and other market parties.

We have serious concerns regarding the effects of the proposed measures on the development of the Dutch market. More specifically, we believe there are other measures, such as overselling and buy-back, which are much better suited to increase capacity optimisation in the transition period towards a new regime of capacity allocation. In addition, Statoil had doubts about the timing of this national proposal, in the midst of the development of new guidelines on congestion management. In the below paragraphs we provide the Ministry with Statoil's views on the proposed measures.

Timing

We believe that the nature of the proposed change will have such a significant impact on the development of the gas market that further market consultation and discussion is essential. Due to the current consultation period coinciding with the Christmas holidays, we believe not all market parties, including Statoil, will have had sufficient time to analyse the impact of the proposed measures on their business and the market. Therefore we ask the Ministry to extend the consultation process for this proposal, or to complement the current limited consultation by organising a workshop in the first quarter of this year on the practical impact on the market.

We understand from the Ministry that a delay to the process of proposing a change to the gas act is not desirable. Statoil do not understand this urgency and would prefer to ensure that changes to the capacity regime are coordinated and effective. Such changes will significantly increase the opportunities to optimise the proposal to meet the markets needs and will provide clarity and trust to market parties with regards to the practical effect of a possible implementation of such a proposal.

Cross-border capacity – scope of application

The Ministry proposes to apply the congestion measure only to cross-border points in the Netherlands. It is natural to apply a measure for the realisation of additional firm day-ahead capacity at such points only. However, this has the effect of limiting the renomination flexibility of only a section of the capacity at Dutch entry points. We believe that this limited restriction of

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existing capacity rights could be unduly discriminating and does not provide a level playing field to all market parties that flow gas into the Dutch market. We would like to ask the Ministry to provide clarity on how it has taken this effect into account when proposing the mentioned solution.

Cross border capacity – increasing availability

Statoil fully supports the Ministry's statements on the situation up to now, in which investment risks have been put fully upon market parties, through the obligation to sign long term capacity contracts without price certainty. We fully agree with the suggestion, as is proposed on a European level in the CAM framework guideline, to improve this allocation process through implementation of a reservation for shorter term capacity products and a better way to assess the need for additional capacity. We refer to [EFETs position paper on Capacity allocation characteristics](#)¹ for the most efficient manner in which to set this up.

We understand the desire of the Ministry to address the situation in the period between now and the realisation of the effects of this new way of allocating capacity. Transitional rules could help ensure that the existing capacity is utilised in the most efficient manner and should be implemented as soon as possible. However, Statoil does not believe that a limitation of renomination rights is suitable for this purpose and could have a detrimental impact on the market.

Statoil believes that the introduction of 'overselling and buy-back', as described in the CMP guidelines of the European Commission, provides a much more suitable optimisation of the utilisation of capacity. It can be used for capacity contract durations from one hour up to several days, weeks, months and even longer. In addition, the structure can and will be permanently in place, removing the need to re-assess the situation of congestion, providing a stable situation for all market parties. Thirdly and most importantly, this mechanism maintains the firmness and flexibility of already booked capacity – not decreasing the value of contracts that were once signed to support and guarantee the TSOs investments. In addition to the overselling and buy-back mechanism, the already existing tools of the competition authorities can be used for targeted action in case of expected abuse.

Overselling and buy back tools also better address the risk balance between TSO and market party, enabling a more dynamic pricing and availability of capacity products.

Statoil does not see the need for the implementation of the proposed tool, when the above mentioned and better suited tools are available and have already proven to function in other markets.

As indicated, the tool proposed by the Ministry decreases the flexibility of existing capacity contracts, thereby decreasing its value. This will naturally lead to a re-evaluation of the existing capacity contracts, as well as the renegotiation of all underlying commodity contracts that are based on this flexibility and or cost of capacity. This process will take a significant amount of

¹ Paper published on www.efet.org under section 'gas position papers' on 27-07-2010, 'capacity allocation process Characteristics'.

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time and may lead to a change in the selection of products that market parties offer their customers.

Naturally, Statoil recognises the added value of additional available day-ahead capacity at congested points. We believe this product provides arbitrage opportunities, allowing gas flows between bordering markets, if the market price dictates it. However, with an auction system for booking this capacity, it is likely that the auction price will reflect such market price difference. We respect the need for capacity products with a shorter duration than the historic 15 or 20 year contracts. However, a contract term that suits the physical needs of end-user delivery, such as quarterly or yearly products will not be provided by this proposed measure. Other measures, such as oversubscription do allow for a more balanced optimisation of capacity in this transition phase.

As we have mentioned in the consultation processes in Germany and on a European level, we believe that the consequences of implementing a tool that affects existing contracts should be thoroughly analysed before implementation. If the Ministry believes that other tools are not suitable to solve the issues of the transition period surrounding contractual congestion, we urge you to consider implementing a pilot version of this new proposal, to ensure the effects can be analysed before all existing capacity contracts and related commodity contracts are adjusted and renegotiated. In addition, we would like to mention the added benefits of the regional approach of the current congestion management discussions. We believe a discussion on regional level is preferable to a national approach, which may be less suitable to take into account the effects of any national proposals on neighbouring markets.

Cross border capacity – practical details

Level of limitation

Statoil is concerned about the lack of objectivity in the suggested manner in which the Ministry proposes the limitation of renomination is determined. Basing this decrease of renomination rights on market share and other practical characteristics of a market parties supply portfolio does not necessarily provide a non-discriminatory, stable structure. We believe that if a limitation is implemented, the percentage of limitation should solely be linked to the amount of capacity booked and nominated.

A link to any possible underlying commodity contract or portfolio should be avoided, as this means that deliveries from a border to a traded market will be faced with greater restrictions than deliveries from a border to end-users directly. This provides an incentive to avoid supply at traded hubs, as this means the same price for cross-border capacity is paid, but less flexibility is available.

Congestion

In its proposal the Minister mentions that the limitation of renomination rights will only apply at congested points. Statoil believes that this characteristic should be further detailed to enable market parties to assess the true impact of the measure.

Naturally, we believe that it is not desirable to apply this limitation of renomination rights when there is no need for additional firm day-ahead capacity. Therefore the market should be ensured

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that it will never be applied in such a situation. On the other hand, the lack of stability that a frequent re-assessment provides may be as bad as the actual limitation of renomination rights itself. Commodity contracts linked directly or indirectly to the capacity contracts at borders cannot count on the fact that flexibility of within day renomination is maintained throughout the contract period if the determination of 'congested' is changed or can be changed at any point throughout the duration of such contracts.

Finally, the definition of contractual congestion is of great importance for the proposed measure and should be taken into account by the Ministry when further considering its proposal.

Cross border capacity – auction process

Statoil strongly believes that the Dutch market should ensure that the measures applied in the transition period help the market move ahead to the new vision of capacity allocation, as mentioned in the Framework Guidelines. All primary capacity, e.g. capacity marketed by the TSO, should therefore be allocated through the new coordinated, non-discriminatory method of allocation. We ask the Ministry to take note of EFETs paper on 'capacity allocation process characteristics', as mentioned earlier in this letter.

Cross border capacity – open seasons

As mentioned above, Statoil strongly believes that any congestion measures should be designed to facilitate the transition to a new capacity allocation process. Open Seasons, or processes to determine the need for and the financing of new capacity, should also be set up with this in mind.

Investment in additional capacity requires financial long term commitment from market parties for a share of the capacity. Due to the regulatory regime in several markets, including the Dutch, it is not possible for market parties to obtain cost certainty for the full duration of such long term contracts. The implementation of the proposed congestion management tool is likely to lead to the realisation that apparently the other terms and conditions of such long term contracts are also not stable. This high level of uncertainty of cost and utilisation conditions are likely to have a negative effect on the willingness of market parties to commit to long term capacity contracts. Without these commitments, and the actual investments that follow from them, the level of physical congestion will not be improved and the position of the Netherlands as gas roundabout of Europe will be endangered.

Statoil believes that a stable and secure investment climate is essential to the further development of the gas market. Any market changes should be viewed in this light. We believe that the proposed measure has not taken full account of the effect on the investment climate. Other options could achieve at least the same goal, without this negative effect and should be considered.

Way forward & Conclusion

As mentioned above, Statoil urges the Ministry of Economic Affairs, Agriculture and Innovation to increase transparency in its reasoning behind the choice of tool to tackle contractual congestion in the transitional period of implementing a new capacity allocation process. In

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In addition we would like to have the opportunity to discuss the practical effects of the proposal and the manner in which the Ministry believes these should be dealt with.

Statoil believes there are other tools much better suited to address the transition period and urges the Ministry to reconsider its proposal. If it feels this is not possible until changes on a European scale take place, we ask the Ministry to consider a pilot phase with limited geographical application of the proposed tools. Thorough analysis of this pilot should provide input into the decision which tools should be put in place throughout the Dutch market.

Statoil trusts the Ministry will take our comments into account and would appreciate the opportunity to further discuss the effects of the proposal with you. Please contact Robert Cross (rcross@statoil.com or +44 7920 848202) with any questions or comments.

Kind regards
Statoil ASA

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