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Re/rough11-12

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Dear Rochelle

Centrica's Completed Acquisition of Dynegy Storage Ltd and Dynegy Onshore Processing UK Ltd

Thank you for inviting us to comment on the above consultation document. Having considered the document, and particularly Centrica's market dominance resultant from their ownership of the Rough Storage Facility, ScottishPower has the following comments on the issues raised.

As stated in our response to the 'SSE Acquisition of Hornsea Consultation Document – October 2002' ScottishPower believes that, generally, operators of Storage facilities in the UK should not be subject to undertakings as this has the potential to discourage new market entrants and lessen competition in the storage market. We are confident that the existing legislative framework relating to competition, and the powers available to Ofgem and the OFT are sufficient to ensure market dominance or abuse does not occur in a competitive market.

As we also noted in our October 2002 response, until such time that more stores in the UK become operational, and hence a more competitive market is created, the dominant market player – i.e. the owner of Rough - should be subject to some form of undertaking. However, through this acquisition, Centrica has placed itself in the advantageous position of controlling 85% of GB gas storage, capable of supplying 10% of UK Peak Demand, in addition to its existing capacity to supply 8% of Peak Demand via their Morecambe Bay operations. This availability puts them in a very strong upstream position. We agree with Ofgem's analysis that this could lead to a substantial lessening of competition – in all areas where short term supplies of gas are demanded.

If Ofgem believe that this position can be reversed solely through the imposition of undertakings then these must be framed in a manner that ensures they do not impact on operators of smaller storage facilities – i.e. the only competition - and must be framed to support competition across the full gas supply value chain, from production field to end

consumer. It is our belief that undertakings can, unfortunately, impact upon those that they are designed to protect if they are not precisely targeted.

In this consultation paper Ofgem has stated that if undertakings are imposed on BGT then they should be greater than those previously imposed on Dynegy. We are unclear how these undertakings could be made more onerous – i.e. the requirement to put 100% of capacity on the market and the requirement to ring fence the storage operation from the trading business.

If Ofgem believe that the imposition of undertakings will provide sufficient protection across the market, then as a small player in the gas storage, trading and retail markets, ScottishPower would seek the following protection as a minimum:

1. SEPARATION OF TRADING FROM STORAGE BUSINESS

It is essential that there is complete separation of the storage business from the commercial and trading part of Centrica. Without this separation BGT will have access to market sensitive information regarding customers' injection and withdrawal patterns and hence allow Centrica the potential to manipulate the market. This was an undertaking imposed on Dynegy and we believe this should remain.

2. CAPACITY AVAILABILITY

Regarding the availability of capacity, Centrica are proposing to retain a percentage (25%-30%) of the store for their own usage and offer the remainder to the market on a non-discriminatory basis under terms similar to Dynegy's undertakings (i.e. through auctions or bilateral agreements). ScottishPower would find this arrangement satisfactory if the retained capacity was transparently fixed in line with their current usage and publicly advertised at this level. We would wish to review their detailed proposals to comment further regarding pricing and the mechanism by which capacity will be offered. If new storage facilities enter the market this should become less of an issue in relation to flexible gas supplies.

If Ofgem believe that undertakings are sufficient to control BGT's market dominance then we would urge Ofgem and the OFT to use their full range of powers under UK Competition Law to police those undertakings. We do believe that Centrica, like Dynegy, should be subject to the provisions of the Fair Trading Act 1973 allowing third parties to take court action should any undertaking be breached. The potential of being penalised up to 10% of UK turnover (Centrica 2001 £12611m) for up to three years should incentivise Centrica not to abuse their position.

We believe that the problems identified in the document reflect the fact that there are not enough new storage entrants in the UK to provide a fully competitive storage market and thus reduce the risk of market dominance by one individual player. We believe that Ofgem

has acknowledged this by highlighting the difficulties encountered by new entrants to obtain planning consents for new facilities.

We agree with Ofgem's assessment that 'regulatory solutions are not as effective in protecting customers' interests as is the operation of effective competition' and we will continue to seek Ofgem's assistance in developing a fully competitive storage market. In the meantime we believe that Ofgem will need to impose regulatory solutions on the dominant market player and we hope this paper has helped Ofgem to formulate a robust solution. Should you wish to discuss any of our comments in this response further please do not hesitate to contact me.

Yours sincerely

Simon Bucknall
Director of Regulation