



15<sup>th</sup> March 2007

Robert Hull  
Director - Transmission  
Office of Gas and Electricity Markets  
9 Millbank  
London  
SW1P 3GE

**RE: Notice under section 23 (3) of the Gas Act 1986**

Dear Mr. Hull,

I am writing to object to the reduction in NTS SO baseline entry capacity at Teesside from 70 MCMD down to 33 MCMD, and to put on record our concerns with both the process followed by Ofgem in relation to this reduction and the methodology that Ofgem applied to give rise to such a large reduction.

First, we have a concern with the reduction in baseline. There has been no evidence presented that a risk of constraints exists at Teesside and in the wider Northern Zone and gas flows have declined significantly since 2002/03 as shown below:

	St Fergus	Teesside	Total	Peak flow compared to 2002-2007 baseline
2002/03	140	40	180	-44
2003/04	139	40	179	-45
2004/05	145	37	182	-42
2005/06	131	34	165	-59
2006/07	125	35	160	-64

Next, we also have concerns in relation to the process followed by Ofgem. At no time from our initial discussions with National Grid and Ofgem in August 2005 to approval of our project in August 2006 was there any indication that capacity at Teesside was going to be compromised. It is reasonable to expect a certain level of consistency and transparency in competitive markets, and we believe that the Teesside baseline reduction runs counter to what should be accepted as good regulatory practice. As a result, we do not believe that the reduction of this magnitude should be implemented, and knowledge of this prior to our undertaking the Teesside GasPort project would have affected our investment decision.

In addition, we do not believe it was appropriate to have 2 urgent modifications (Mods 0128 and 0129) that resulted from the baseline reduction, again with no evidence offered that there was a significant risk of a constraint in the Northern zone.

Finally, we believe we understand the methodology adopted by Ofgem in relation to the baseline reduction. Once a 'constraint' had been identified, flows into the constraint were reduced in proportion to the size of the baselines at terminals supplying the constraint until one of the terminals reached the level that had been sold for any period after 1 April 2007. That terminal's



new baseline was then fixed and the 'pro-rata on size' reduction continued with the other terminals until the next one reached the level of sold capacity after 1 April 2007. This methodology was not discussed with the industry prior to being implemented and we find it to be both arbitrary and flawed.

Ofgem did not take into account actual flows (and hence capacity sales) in winter 2006/07 prior to implementing the reduction. This would have flagged Teesside flows at 35 MCMD and would have resulted in a far higher 'new' baseline for Teesside. Similarly, Ofgem could have taken National Grid's forecast flows for 2007/08, which again would have led to a higher new baseline capacity for Teesside.

By adopting the methodology based on 'sold' capacity after 1 April 2007, Ofgem was ignoring the impact of National Grid's transportation charging methodology that it has approved. This includes a free daily firm capacity product. Given the decline in Northern zone UKCS flows, the high Teesside baseline and the daily free capacity it was reasonable for a party such as Excelerate to believe that 'market signals' were indicating that it would be unwise to commit to buy long term capacity as this product was not scarce and had no secondary market value. Had we ignored market signals and bought long term capacity in Sept 2006 we would have achieved a higher baseline for Teesside. This cannot make sense. Excelerate Energy invested in its facilities at Teesside in order to respond to signals from the UK gas market that gas was in short supply. One part of Ofgem encourages gas price signals to bring gas to the UK, the other part of Ofgem expects shippers to buy long term capacity without signalling that such capacity will be in short supply.

It is not too late for Ofgem to implement a higher baseline at Teesside and rectify the above, and we respectfully urge you to do so.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Rob Bryngelson".

Rob Bryngelson,  
Executive Vice President and Chief Operating Officer