

Third Package Consultation Team  
Department of Energy and Climate Change  
Area 4C  
3 Whitehall Place  
London SW1A 2HD

19<sup>th</sup> October 2010

Dear Sir

We are responding on behalf of BG Group to your consultation 10D/727 "Consultation on the Implementation of the EU Third Internal Energy Package", focusing on Chapter 3 "Gas Infrastructure" and the appropriate form of regulation for LNG facilities. BG Energy Holdings Limited (a wholly owned subsidiary of BG Group plc) is a 50% shareholder and, through a subsidiary, a 50% capacity holder at the Dragon LNG importation terminal.

We note that DECC are open minded over the method used to implement the new requirements from the 3<sup>rd</sup> Directive, citing a balanced set of pros and cons for both a specific new Licence or through Legislation.

We would favour the use of primary legislation to ensure the UK adequately implements the Third Directive. Whilst a Licence is likely to be easier to implement future rules coming from European Commission, we believe that by using primary legislation, DECC would retain oversight on the applicability of such potential amendments. This approach is likely to be mirrored in other Member States, so the need to revise primary legislation (as opposed to a Licence amendment) would permit greater scrutiny of the appropriateness of the revised measures and rules, helping to ensure that UK entities are not discriminated against vs their counterparts in other Member States.

The use of primary legislation would provide greater regulatory certainty to LNG operators, acting as an important criteria for future investment decisions. One concern with the use of a Licence is that Ofgem may interpret its powers under the 3<sup>rd</sup> Directive (Article 4(2) and Article 12) in a way that creates inadvertent discrimination between new and existing facilities with variations in their Licence conditions.

There are already appropriate powers for the regulator to ensure that LNG facilities comply with the 3<sup>rd</sup> Package requirements, for example with respect to the information transparency under EC 715/2009, passing information to the TSO and publishing facility specific information on its website.

It is worth noting that much of what would be required in a new Licence is already in existing legislation and the creation of the Licence itself would probably require new legislation to be implemented. As a consequence, it seems more straightforward to just apply the appropriate primary legislation now. In the event that the consultation process favours the application of a Licence, BG would encourage DECC to maintain its approach of a light touch and focus the Licence solely on the requirements of the Third Directive.

Yours faithfully,



