

E.ON UK PLC

Appellant

- v -

GAS AND ELECTRICITY MARKETS AUTHORITY

Respondent

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**SUMMARY OF STATEMENT OF BRITISH GAS TRADING LIMITED  
AS PROPOSED INTERVENER**

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**Introduction**

1. British Gas Trading Limited ("**BGT**") seeks permission to intervene in support of the appeal by E.ON UK plc ("**E.ON**") made pursuant to section 173 of the Energy Act 2004 against the decision of GEMA published on 5 April 2007. This decision permitted modification of the offtake arrangements in the Uniform Network Code ("**UNC**") via implementation of the National Grid Gas' ("**NGG**") modification proposal, Mod 0116V (the "**Decision**").
2. This summary provides a synopsis of BGT's Statement of Intervention dated 30 May 2007 (the "**Statement of Intervention**"). BGT also relies on the Witness Statement of Michael Young and the exhibits thereto.
3. Unless otherwise defined herein, terms used in this Summary are as defined in the Statement of Intervention.

**Grounds for intervention**

*Support of E.ON's grounds of appeal*

4. BGT generally supports the grounds of appeal outlined in E.ON's Statement of Case and Point-Form List. In particular, BGT believes that GEMA has failed to appreciate the

abundance of within-day offtake flexibility in the NTS. In fact, this abundance is a by-product of investment by NGG to meet the 1-in-20 year peak day requirement for NTS exit capacity pursuant to NGG's licence conditions.

#### *UNC Objectives*

5. BGT submits that implementation of Mod 0116V will not facilitate the achievement of the relevant UNC objectives, specifically (i) the efficient and economic operation of NGG's pipeline system nor other pipeline systems; or (ii) securing effective competition between gas shippers, or between Gas Distribution Network ("**GDN**") operators and gas shippers.
6. BGT submits that, in making the Decision, GEMA has failed to have due regard to the adverse impact that Mod 0116V will have on wholesale and retail electricity markets pursuant to GEMA's wider statutory duties e.g section 4AA of the Gas Act 1986.

#### *Quantitative versus qualitative considerations*

7. The qualitative benefits asserted by Ofgem are unsubstantiated and we remain unconvinced by Ofgem's analysis that these benefits will in fact arise as a result of implementing Mod 0116V. Moreover, even if such benefits do arise, Ofgem's reasoning for attributing specific values to these benefits is not transparent and the values attributed are unsupported by industry assessments of the impact of Mod 0116V.
8. Ofgem discounts the actual costs of implementing the Decision and attributes unsubstantiated high values to the uncertain benefits it claims will arise as a result of the Decision. Ofgem's quantitative analysis underestimated the net cost involved when compared with the assessments of other industry participants and experts. Furthermore, Ofgem's calculations were not supported by sufficient reasoning, thus making it very difficult to assess the adequacy of GEMA's case for implementing Mod 0116V.
9. BGT considers that the quantitative economic value attributed by GEMA to the speculative reduction in discrimination risk generated by Mod 0116V implementation is also unfounded as it fails to take consideration of the likely increase in business risk frequently associated with the introduction of new and untested industry arrangements and the specific risks likely to result as a by-product of the design of Mod 0116V.
10. The benefits attributed by GEMA to Mod 0116V implementation are purely speculative in nature, whilst the associated costs are demonstrable. BGT submits that it is disproportionate to base fundamental changes to the gas industry merely on theoretical risks which may not be likely to arise.

### *Investment signals*

11. GEMA places significant reliance on the argument that Mod 0116V implementation would result in improved investment signals, but fails specifically to detail how any such improved signals would work. Indeed, GEMA's own evidence suggests that Mod 0116V would actually result in a "no better" outcome than that currently in existence. NGG, by its own admission, does not invest in the NTS specifically to create flexibility. Accordingly, there is no basis upon which the proposed flexibility capacity auctions will provide useful investment signals to NGG as while they may receive them they appear to have no intent to act upon them. BGT further submits that Mod 0116V is likely to result in over-priced NTS flexibility, which would result in the wrong investment signals being sent to GDNs, rather than improved signals.

### *Discrimination*

12. By approving Mod 0116V, Ofgem is seeking to eliminate perceived existing differences in the treatment of GDNs and shippers delivering gas to transmission connected customers ("**TCCs**"). However, BGT submits that the current system is justifiable as the two groups place very different demands on the NTS, particularly with respect to their nature (i.e. regulated network companies compared to commercial entities in competitive markets) and the timing of within-day flexibility requirements. Consequently, the flexibility demands of GDNs and TCCs are not comparable in economic terms and should not be treated equally under the UNC. Further, the existing arrangements result in no material adverse consequences with respect to economic efficiency or effective competition.

### *Flat capacity*

13. BGT submits that the flat capacity arrangements proposed by Mod 0116V would offer no material advantage to the existing ARCA arrangements between transporters and directly connected shippers/consumers. Furthermore, Ofgem's assertion that Mod 0116V would establish a low cost framework within which to resolve future ARCA disputes is short sighted given that disputes relating to the existing system are extremely rare and Mod 0116V implementation is likely to require further costly UNC modifications on the basis of its design.

### *Flexibility capacity*

14. GEMA places significant weight on its belief that a flexibility capacity product is required. However, GEMA has conceded that there is no shortage of offtake flexibility within the NTS, whilst further acknowledging that the potential for constraints to arise in the future is uncertain. The issue of flexibility scarcity is central to GEMA's undue

discrimination arguments and quantitative-qualitative analysis. GEMA, however, has failed to establish convincingly that there are constraints in flexibility capacity.

15. Mod 0116V proposes that NTS users be required to book their maximum within day flexibility requirements on an annual basis. The perceived need for this market based rationing mechanism is strongly opposed by BGT. BGT submits that there is no justification for its introduction as there is an abundant supply of flexibility capacity. Indeed, the need annually to book flexibility requirements ignores the non-coincidence of network users' flexibility requirements and will effectively generate artificial scarcity as users opt to "bank" flexibility capacity rather than risk running short of supply within any given day.
16. BGT are further concerned that an annual auction of flexibility capacity will introduce unjustified discrimination to the market place as GDNs, compared to shippers delivering to TCCs, are likely to have a greater ability to accurately forecast the amount of within-day flexibility they may require on an annual basis. Furthermore, GDNs are better placed to largely pass through additional costs to their consumers, meaning there is limited incentive for them to restrain their auction bidding, thus risking the barring of access to flexibility capacity for shippers delivering to TCCs. Such discrimination could have significant knock-on consequences for the efficiency of the power sector as gas-fired power stations may fail to secure sufficient flexibility capacity. Although GEMA asserts that Mod 0116V includes anti-hoarding arrangements, no detail is given as to how these will work in practice.

## **Conclusion**

17. For the reasons set out in the Statement of Intervention, BGT invites the Competition Commission to grant BGT permission to join EON as a co-appellant against the Decision.

30 May 2007