



YORKSHIRE PURCHASING ORGANISATION
41 INDUSTRIAL PARK – WAKEFIELD WF2 0XE

Confidential Report to members of the Consortium on the mini-tender under Framework 000145 – the Supply of Firm Gas

The tender was advertised in the Official Journal of the European Union and appeared under Notice 2008/S32-043906 on the 15th February 2008.

The period of contract was advertised as being four years from 1st June 2009 to 31st May 2013 inclusive. The tender sought to identify suitable shippers capable of managing the consumption offered by the aggregation of the demand for Firm Gas for those authorities and public bodies involved in the YPO mini tender.

The volume was identified as being an estimated 2,132,292,913 kilowatt-hours, which is 70,512,780 therms.

The I.T.T. sought to establish the capability of each competing Company and score award criteria other than price as follows :

Customer service – 15%, Quality – 10%, Technical assistance – 5%, Innovation and development – 5%, Environmental – 5%.

The process identified five suppliers who were awarded frameworks namely: British Gas, Corona Energy, E.On, Gaz de France and nPower and accordingly a Contract Award notice 2008/S 108-144013 was published in the OJEU on the 5th June 2008.

Each supplier had been given the consumption schedules of all the Authorities involved, which had been prepared by their incumbent via National Grid returns and they were asked to prepare their offers based on the information provided.

Two prices were sought, one for those authorities who might wish to remain on the current system of purchasing and one for those wishing to have the Gas bought on a more flexible basis.

Prices were logged electronically at 11.00 am on Wednesday 10th May 2008 to a dedicated mailbox within YPO Contract Services. At this stage, we only sought to identify the fixed costs eg: risk/management/transportation and metering and not the cost of Gas. The Gas will be bought during the period prior to the contract start, which will be subsequently selected by YPO Contracts personnel after reference to the appropriate daily Wholesale price indicators.

Suppliers had been informed that, as well as a quality service for both options, on the Flexible offering, we would also require the following.

- The ability to fix all non-energy costs prior to contract start up.
- The ability to buy all of the gas required prior to the start of the contract year.
- The ability to buy in multiple tranches (i.e. Flexibly) as appropriate.

With the total consumption at our disposal, if all Members go for the flexible proposal, buying in "clips" will permit YPO energy buyers' eighteen separate opportunities to buy the Gas, which will enable better management of the extremes of price volatility.

Under traditional flexible purchasing contract offerings, hitherto seen by YPO, Shippers normally require the buyer to nominate a minimum volume of gas prior to contract start up and would expect the buyer to pay for any gas not taken. This mechanism is called "cash out" or "take or pay", i.e. take all the gas booked or pay for any shortfall. All shippers had been informed prior to the price enquiry that if a flexible contract option was made available, that would possibly gain favour to one that insisted on cash out/take or pay. Suppliers were also informed that no "pass through charges" in metering or transportation would be permitted during the contract year. The price-weighting element had been advertised in O.J.E.U. as 60%, which when added to the original 40% for the quality, aspects would permit YPO to rank the various offers.

British Gas Trading Ltd, 1600 Parkway Court, Garsington Road, Oxford, OX4 2JY

Submitted their General Fixed price Conditions (Version 5.0 June 2008) of Supply, together with those for Monthly Purchasing (Flexible) dated July 2008.

The General Conditions in keeping with others from all suppliers are in the main written to comply with the Gas Act (1986) as amended by the Gas Act (1995) and any regulations made or amended or enacted "from time to time" thereafter.

In their Flexible Conditions Paragraph 4.1.2.3 states:

"If British Gas reasonably believes the estimated consumption forecast is not an accurate representation of the customers consumption requirements, the supplier reserves the right to amend the estimated consumption forecast." Paragraph 4.1.2.4 then qualifies that "in the event of the supplier making an amendment under Condition 4.1.2.3, the supplier may revise the gas commodity cost calculation and recover any additional costs incurred as a result of such amendment."

The Account Manager would be Stephen Shawcross:

Telephone number: 01625 599194 Mobile: 07979 566890

E-mail: stephen/shawcross@centrica.com

The following is text lifted directly from their outline offer.

Option 1 – Fixed Basket- (Fixed price as YPO buy Gas at present).

This option will allow YPO to lock out all non-gas costs, including risk, transportation and metering. YPO will then have until the 24th of the final Month-1 (i.e. 24th May 2009) to secure the gas element for the entire basket – Because all of your gas requirement will be purchased before the commencement of the contract, each Council will be billed an actual price and there will be no need for any reconciliation. You can purchase individual months, quarters or seasons as long as you purchase the entire requirement before the commencement of the contract.

Option 2 – Flexible

This option will allow you to purchase flexibly within the contract period in 5,000 therm clips. You can trade live market prices; settlement prices, day ahead and month-head index prices. All purchases must be made before the 24th of Month- before the month of delivery – i.e. for August all purchases need to be made on or before the 24th of July. Please note any volumes not purchased will be left to float on day-ahead.

Because the final delivered gas price will be unknown and monthly prices will change – this product would include reconciliation between billed reference prices and actual prices secured. I suggest that you go for seasonal reference prices, with a six monthly reconciliation.

BG management fees would be subject to review on the anniversary of each contractual year by RPI and Transportation and metering will also be amended on each anniversary of the contract in line with those published by National Grid.

All offers are made in line with our general terms and conditions.

All our management fees are based on 14-day payment terms. Please add 0.007pp/kWh for 21 and a further 0.009 for 30 payment days.

Please note – these management fees and the products are only applicable if we secure enough of the basket to make them viable. They have quantified viable as 3 million therms. Failure to acquire that level would see the imposition of a surcharge of 0.02 p/kWh which equates to 0.586 p/therm.

Corona Energy, 1 The Exchange, Brent Cross Gardens, Brent Cross, London, NW4 3RJ

Corona Energy submitted their General Conditions of Supply and Special Terms and Conditions for Large Customer Flexible Gas Procurement Framework Agreements (including daily metered sites)

Special note by YPO: By and large, the majority of meters within the Consortium are – non-daily metered (not read on a daily basis).

Contrary to YPO requirements Paragraph 5.1 in the Flexible Conditions notified their intention to “pass through” transportation and metering charges within the contract year.

Paragraph 4.2 qualifies the method to establish benchmark prices and 4.3 states that “on the reconciliation date, the commodity price (monthly weighted to the National Grid seasonal normal profile) will be reconciled against the benchmark price invoiced since the previous reconciliation date and an amount equal to the difference shall be invoiced to or credited to the customer.

NB In essence that means if you take less than you have estimated, Corona would have to sell any surplus back into the market.

If the price has increased over the original average purchase price, you are refunded the difference, but if the price has reduced, you are charged in full for any shortfall.

In their General (Fixed) Terms and Conditions, Paragraph 2.1 states the gas consumption threshold as being plus or minus 15% of the annual quantity. If sites are added or removed Corona reserve the right to reflect cost increase/decrease as appropriate, you should also take into consideration their statement under Paragraph 4.2 – Billing and Payment.

“If payment is not received by the due date (final date of any month) Corona Energy will charge interest of 4% above the base lending rate as published by Lloyds TSB Bank PLC and can also charge a late payment administration fee, increase the contract price to out of contract rates and prevent a customer transferring to another supplier by lodging an objection”.

The Account Manager would be Mary-Anne Sadler:

Telephone number: 01768 351085

E-mail: Mary-AnneSadler@coronaenergy.co.uk

Corona submitted the same price for a fixed or a flexible option and stated that due to anomalies on some of the database detail they had been given, they had not been able to make an offer for all members of the Consortium.

Note from YPO: Bids from other suppliers would indicate that, apart from the Wigan Investment, Centre (on which only E.ON made an offer) the other Shippers did not encounter any problems in retrieving post code or consumption data to enable them to table a bid.

The fixed price submission from Corona shows that out of a possible forty-seven portfolios, they only made offers on sixteen.

Their flexible offering cites six million therms as an acceptable sized clip. In total, the volume they made offers was 7,776,363 therms, which would prevent us buying any Gas from Corona on a flexible basis.

E.On Energy UK, Westwood Way, Westwood Business Park, Coventry, CV4 8LG

Submitted their General Terms and Conditions of Supply – Version Number 9 and also their Special Gas Tracker with Flexible Option Supplementary Terms Annex 1. There is no reference in the documents to charge any additional fees for late payments.

E.ON agreed to give YPO the ability to do everything outlined in the original tender guidance documents, which were forwarded to all prospective bidders prior to the Tender shot namely:

- The ability to fix all non-energy costs prior to contract start up.
- The ability to fix all volume prior to the start of this contract year.
- The ability to purchase in multiple quantities to fulfil the total volume requirement as appropriate.

The most important part of their offer is that they would not impose cash out (take or pay) and therefore under any Contract with E.ON there is absolutely no pressure on members to accurately nominate any likely consumption values for any contract year.

Joanne Buckley would be the Key Account Manager with strategic management of any contract with YPO. Joanne can be contacted by Mobile on 07879 802236 or e-mail at Joanne.Buckley@eonenergy.com, Joanne will be supported by Chris Daniel (Sales Support) and Deanne Knowles (Sales Support). Joanne works within the Public Sector Team within E.ON's groups business. The Public Sector Team specialise in supplying gas and electricity to local government, NHSPasa and Universities and Colleges.

The text on Page 5 of the report has been taken directly from the offer submitted by E.ON.

A dedicated team within the groups business based in Coventry will handle the billing of any contract awarded to E.ON. A 'family tree' of key contacts would be provided to each YPO Authority. The groups query resolution process is successful due to the interaction between the Key Account Manager, Sales Support and Portfolio Managers. The Key Account Manager is responsible for the overall strategic running of the contract and works closely with Sales Support and Portfolio Managers. If a contract is awarded the customer is assigned a named Sales Support and Portfolio Manager with whom they have direct contact. These colleagues can also attend customer review meetings if so required. Any billing queries are initially handled by the appointed Portfolio Manager, who may call for support from Sales Support or the Key Account Manager if required. Any registration queries are handled by the Sales Support Team, which ensures any proposal automatically generates the registration flows. Sales Support, Portfolio Managers and Key Account Managers work closely together and are all inter-dependant to ensure the speedy resolution to queries. **Ownership of the query remains with these key personnel until satisfactorily concluded.**

For the purpose of clarification, E.ON does not impose 'take or pay' clauses in their contracts and we are happy to include a contractual term in YPO Gas Contracts to this effect. Sites will be permitted to leave the contract without penalty and any additional sites will be priced on a fixed contract on prevailing market rates and joined onto the flexible contract on the next available anniversary.

Payment terms are 28 days BAC's/Cheque. Where payment is delayed due to disputed information or unforeseen circumstances, E.ON will work with YPO to the mutual benefit of both parties rather than impose punitive interest rates.

Added Value Services

E.ON will put an FSA approved advisor in place to interface with YPO Energy buyers. This service will help YPO with their purchasing decisions, as the service not only includes price trend advice as well as up to the minute advice on the best time and how much to buy.

Site work/ New Connections/Upgrades

The Energy Connections Team is also based at Coventry. They can provide the necessary infrastructure for energy supply and metering requirements as part of a total energy package. This means that you don't have to spend time contacting different service providers.

E.ON's team of experts have worked with a broad range of customers, from small businesses to large-scale industrial sites. So, whether yours is a new build, a conversion or an upgrade, our Business Energy Connections team provide a total energy solution for new connections, increased supply and metering solutions.

From the start you'll have one point of contact. The team will answer any questions and guide your installation project from conception to completion, providing you with a fully tailored utility solution.

Our bespoke approach helps us to move quickly, taking the hassle out of areas such as:

- new service and meter installation
- meter removal
- meter relocation
- service isolation
- establishing the infrastructure of your development site
- providing an outlet network
- creating an effective interface with your energy management system
- arranging service diversions
- increasing capacity
- carrying out upgrades
- removing redundant supplies and meters after site closure or redevelopment
- making sure that there is enough energy available when you need it

The process is very straightforward:

A Gas connection form needs to be requested from the Key Account Manager, completed and returned by e-mail. These forms can be provided electronically at the commencement of any contract to the YPO, the Council and if required their contractors.

The form will be checked and logged by a dedicated member of the E.ON Public Sector team and passed to a named contact in E.ON Energy Connections for pricing.

A quotation will then be sent to the named contact on the application form. Once the quotation is deemed to be acceptable, it must be signed and returned with the relevant payment.

A firm date to carry out the necessary work will then be given to the person who originated the enquiry.

Gaz de France, 1 City Walk, Leeds, LS11 9DX

Submitted their Fixed Term General Terms and Conditions dated 31st March 2008. Special attention should be given to Paragraphs 6.19 – Consumption Tolerance 6.19.2 – Consumption Threshold and 6.19.3 – Consumption Tolerance Forecast.

Paragraph 6.19. reads - “At the end of the supply period or, for contracts greater than 12 months, on an annual basis, we will compare invoiced consumption against the consumption tolerance forecast. If over the whole supply period, the total invoiced consumption is outside the consumption threshold, we shall be entitled to recover the additional costs of supply, calculated by reference to differences in volume and price for each month (as outlined at 6.19.1)”.

Paragraph 6.3 outlines their rights as follows. “If payment is not made by the (monthly) payment method, then we shall be entitled to charge you an administration fee in respect of each invoice (presumably for those remaining unpaid?).”

With specific regard to their flexible offering, there are serious concerns with regard to 5.1 – Addition of Supply Points and once again 6.3 – Charges and Payments.

5.1 – supply points may only be added or removed from the consortium as detailed in Clause 5 of the General Terms and Conditions.

The parties agree that new persons or bodies cannot be added to the Consortium and/or become party to the agreement without the agreement in writing of GDF.

Paragraph 6.3 imposes the General Condition within 6.19 of the General Terms and Conditions outlined above and would appear to indicate that they reserve the right to impose “take or pay/cash out” for any Gas booked but not used.

The GDF Account Manager is Leigh Brown:

Telephone: 0113 306 2113 Mobile: 07736 106 695
E-mail: leigh.brown@gazdefranceenergy.co.uk

Gaz de France offered a flexible proposal only and quoted for all sites apart from the Wigan Investment Centre and Ribble Valley District Council.

The offer is based on their best understanding of third party charges (metering and transportation). The costs details include transportation, metering and risk as at 9th September 2008. Gas de France stated they reserved the right to revise these costs in May 2009 prior to the Contract start date, which is 1st June 2009.

(Note: Effectively that means that we would not be able to establish our true first year costs until as late as May 2009, which is not satisfactory.) Due to the volatility of the market, Gaz de France respectfully reserves the right to amend or withdraw the proposals at any time prior to the receipt of any acceptance.

They included an appendix titled “Gas Day Ahead with Sellback Appendix to Gas Supply Contract: Terms of Business”.

The terms contained therein make reference to Balance of Month at Paragraphs A.1 to A.17 inclusive.

Paragraph D.1 requires YPO to set an initial consumption forecast (in therms) on a monthly basis for all its members and E.2 cites the fact that they reserve the right to amend the volume-weighted average price for any month of delivery as a result of a revision to the actual profiled consumption.

The paragraph concludes as follows. “Any such amendment shall entitle Gaz de France to perform reconciliation, following which, if performed, the amount of money from or to us shall be invoiced or credited to you (one assumes YPO) respectively, as soon as reasonably practicable.

Note from YPO: The option put forward by GDF will not permit the advanced notification of budgets, in that they can alter the standing charges up to one month before the contract year start up, plus one would possibly concur that their intention to reconcile estimated against actual consumption and apply cash out (take or pay) is a high risk strategy as far as YPO and its members would be concerned.

Following the purchase of Gas in May 2008, comparing the consumption values with those in the 2006 offers, it is apparent that our energy conservation/engineering colleagues are making concerted efforts to turn down thermostats to attempt to save gas, some sites could leave under PFI agreements, the Transforming Schools projects sees some Schools being replaced by larger Comprehensive and Sixth Form concepts, Housing Departments are being privatised and most important of all, the vast majority of our sites are non-daily metered with the majority being billed against estimated reads.

nPower Commercial Gas, Windmill Hill Business Park, Whitehill Way, Swindon, SN5 6PB

nPower are not yet in a position to offer a mature flexible contract for firm gas. They submitted the following statement to YPO via e-mail on 5 September 2008, which effectively asked to be excused from submitting any offers.

“The YPO Gas tender has come too soon for us, due to ongoing internal processes we have been undertaking, we are in the throes of revising our Flexible Terms and Conditions so effectively, we are not yet in a position to offer you what you require”.

That statement effectively means that the following will need a new shipper effective from 1st June 2009.

Batley Grammar School, Barnsley Business and Innovation Centre, Barnsley Premier Leisure, Knowsley MBC, Lancaster CC, the Magna Trust, Rotherham MBC (trying to move some sub 2500 sites anyway), City of York – sub 2500, South Yorkshire Police – sub 2500, Oakbank School, Ryedale DC, Salford College, Selby College, South Lakeland DC, University of Bradford, the City of Wakefield MDC and Wakefield Housing.

Existing Shell Gas Direct customers - City of York, Doncaster MBC and South Yorkshire Police will also need a new supplier, as Shell did not apply for the documents of tender to permit them to make an offer.

Price Consumption Comparisons

Fixed Price Contracts

A schedule showing the fixed charges for a fixed price contract is attached for your portfolio. The fixed price comparisons show the charges that the shippers will charge for the fixed parts of their price matrix (excluding the raw costs of gas). The costs are shown in both pence per kilowatt-hour and pence per therm.

The charges for risk and management is the price they need to protect them against price “swing” during the Contract year and their operating profit and administration overheads. Their transportation charges mirror the cost of delivering the gas through the grid to your meter.

In essence these costs are announced and are usually increased in June and October of each year. The transportation costs are the same for each Shipper. We have asked Suppliers to quote fixed costs for June 2009 to May 2010. As these figures have not yet been published, the prices quoted by each Shipper on the bid sheets mirror the current costs, plus percentage uplift, showing what they think the transportation rates could be in June 2009. GDF and Corona have since the offers were made already been in touch to state they would pass through an increase (circa 13%) were they to be awarded business from 1st June 2009. E.ON and BG have allowed for an increase in their price offerings.

The metering cost is the charge applied appropriate to the type of meter you have on each of your sites as published in the National Grid Scale of Charges, again usually in June of each year.

In making your decisions, please bear in mind that British Gas will expect payment in 14 days. If you cannot meet that requirement, they will apply 0.007 pence kilowatt-hour for 21 days and 0.009 pence kilowatt-hour for 30 days. In pence per therm, that equates to 0.205p/therm for 21 days and 0.26p/therm for 30 days.

Corona insist on a threshold of plus or minus 15% of the estimated annual quantity being used. If sites are added or removed, they reserve the right to increase/decrease their costs as appropriate.

If payment is not made by the final date of the month, interest of 2% above base rate as published by Lloyds TSB PLC can be charged, plus they reserve the right to charge a late payment fee, increase the contract price and lodge an objection preventing any transfer to another Shipper.

E.On require payment in 28 days by BAC's or cheque and where payment is delayed due to any disputed information, they pledge to work with YPO to the mutual benefit of both parties. Under no circumstances will punitive interest rates be applied.

Fixed Charges – Flexible Contracts

Corona, Gaz de France and British Gas would expect YPO members to nominate a consumption figure at the start of the supply period and expect that amount of gas to be taken. Due to the fact that we are using non-daily read meters and colleagues are obviously attempting to save energy it would not be prudent to enter any contract that permits a supplier to carry out any form of reconciliation. Because we do not have access to accurate actual data, to accept such an agreement would grant licence for a shipper to “pass through” additional costs, which are commonly referred to as “cash out” or “take or pay”.

E.On Energy does not impose any reconciliation charges and therefore there is no pressure on Local Authorities and Public bodies to nominate and more importantly commit to take or pay for any consumption.

If all YPO Gas Contract users agree to permit YPO to buy flexibly the Gas required to supply sites would be bought in clips prior to the contract start date and an average of the price of all purchases made. This average would then be added to the published fixed charges on the bid sheet for risk/management, transportation and metering, to provide a fully rolled up price of the gas prior to the contract year start date. This can then be shaped to suit the various profiles required by each authority re: large, small and sub 2500 (or more categories as required and as appropriate for any/all Authorities or Public undertaking).

The flexible price sheet element shows the fixed charges submitted by E.On only. As outlined already there is no obligation to take any nominated amount of gas.

Such an offer will permit YPO to buy gas without the threat of unforeseen “pass-through” or surcharge to give absolute price certainty.

Special Note

Some of our authorities embed a rebate in their gas prices to provide an income stream to fund energy conservation initiatives within their organisations.

Once you have identified your preferred supplier and price option (fixed or flex) we will ask you to confirm in writing the level of rebate you require to be included directly with your selected supplier with an indication as to the frequency and method of payment required.

At this stage, , rebate for any authority **has not** been included in any price comparison. In making the arrangements to embed rebates, with the greatest of respect, YPO cannot collect these payments on any authority's behalf and cannot be held responsible , on the grounds that it is direct transaction between the shipper and the appropriate authority/public body making the request for payment.

Next Steps

If you wish YPO to buy your gas on a flexible basis from 1st June 2009, once we have written confirmation of that fact, we will ask E.On to draw up a gas tracker proposal for you to sign. The document will bear the details that appear on gas bid document sent as an attachment to this report.

An estimated consumption value together with fixed charges in pence per kilowatt-hours and therms will also be stated.

Once signed the document gives authority to aggregate your demand with that of others in the consortium to enable YPO to procure the gas in minimum “clips” of not less than four million therms per day. In parallel with the document you are required to sign, E.On will require YPO to sign Form V1ECM Draft One, which identifies YPO as your authorised agent to buy your gas.

For any public body/local authority who do not wish to have their gas bought on a flexible basis after reference to the relevant wholesale indicators, YPO will lock the price out in a single purchase.

Consortium Wide Offer – Flexible Contract – E.On Energy Ltd

As well as your individual price sheet please find attached a separate bid document submitted by E.On Energy. This offer aggregates the total demand available through the consortium for firm gas and effectively would mean that every authority would have the same fixed charges. As previously outlined YPO would then buy clips of gas to fulfil the total consumption and an average price of these purchases would be added to the fixed charges and then multiplied by the estimated consumption value. Depending on each authority’s desired profile the offer could be customised to reflect large, small and sub 2500 sites as appropriate for each authority party to the agreement.

YPO Energy

19 September 2008