

On 8 March 2020, the Russia-Saudi Arabia oil price war began. With supply increases and demand reductions resulting from the spread of the coronavirus disease 2019 (COVID-19), global oil prices have plummeted. Many consider oil prices are capable of decreasing even further.

Operators and companies in the supply chain are now facing a triple threat: an oil price war, decreasing demand and a global pandemic. Ensuring the financial stability of both operators and companies in the UK oil and gas supply chain is paramount. The recently issued OGUK Business Outlook 2020 confirmed that the position of the UK oil and gas industry is “paper thin,” and that “significant concerns” exist “about the resilience of the [UK oil and gas] supply chain, especially to absorb further pressure.”

Government stimulus will help, but if current conditions persist, many companies in the supply chain will likely struggle to recover. As the OGUK highlighted, “many companies are already in an unsustainable financial position following the last downturn and the ability for companies to absorb further reductions is limited.”

As of last week, operators and co-licensees are reducing activity and investment to protect their employees, protect their businesses and preserve cash. Reports of reduced activity to safety-critical tasks that require fewer workers offshore are commonplace.

North Sea operators are also suspending production and/or starting field abandonment processes earlier than expected. EnQuest confirmed last week that it is abandoning production at the Heather and Thistle/Deveron fields, two seasoned North Sea offshore oil fields. Similar reports have been made of operators that are expecting to shut down drilling operations and warm stack drilling rigs.

Decommissioning Security

Operators and co-licensees need to calculate the additional security required under their respective decommissioning security agreements.

As with the triple threat faced by the oil and gas industry, any serious downturn causes a “triple-whammy”; as (1) the amount of security that needs to be posted in line with existing decommissioning security agreements for any field will increase; (2) the date on which security will be modelled as being needed will come forwards; and (3) reduced revenues will impact on cash positions and on borrowing capacity. This can cause a liquidity crunch as revenues fall.

With current volatile markets, continued impact of COVID-19 and the ongoing oil price war, answering the necessary questions to determine net decommissioning costs and value is more difficult:

- When will decommissioning actually occur?
- What is the exact scope of decommissioning?
- What is the appropriate risk factor?
- What oil and gas prices are to be used?
- What reserve data should be used?
- Should tiebacks or other revenue be accounted for?

Although the parties involved will have divergent interests, they will have the same goal to “provide sufficient decommissioning security while ensuring solvency of their partners”.

Yet, even at the best of times, issues can and do arise. This is not surprising. Interested parties will want to protect their respective interests. Operators will also want to ensure that the calculations and decisions they have made are justifiable in the circumstances. Protection from liability is essential.

Expert Determination

This is where expert determination can and does provide substantial assistance. Expert determination can be used to review the net cost, net value and, where a Decommissioning Relief Deed applies, PRT relief.

If applied properly, expert determinations are capable of quickly, effectively and cost-efficiently resolving technical issues.

Both the 2009 and 2015 iterations of the UK Oil & Gas’ standard-form Decommissioning Security Agreements (DSA) have provisions for expert determination. Clause 11 of the 2015 standard-form DSA provides the mechanism for expert determination, including provisions ensuring that:

- Expenditure incurred in the expert determination is kept as low as practicable
- The expert determination procedure established provides for a fair, expeditious and economical expert determination
- The expert has the ability to obtain legal or technical advice with the consent of the parties
- The final decision shall be binding except in the case of fraud or manifest error
- All matters in the expert determination remain confidential

For a detailed discussion, see our publication "[Decommissioning in the UK Continental Shelf: Decommissioning Security Disputes](#)", which discusses:

- How Decommissioning Security Agreements operate
- The impact of the oil price on decommissioning security
- Decommissioning Relief Deeds
- Issues with the calculating of net costs and net value
- Expert determination under Decommissioning Security Agreements, including:
 - Identifying the right expert
 - Appointment of the expert
 - The scope of the expert's power
 - Procedural matters
 - Timing
 - The expert's determination
 - Costs of the expert determination

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