

Summary of responses
EREG consultation on existing transparency requirements
8 November 2011

1. Background

EREG carried out a public consultation¹ on existing transparency requirements for natural gas in the fourth quarter of 2010 to gather views on existing legally binding and voluntary transparency requirements, requirements introduced or made binding by the 3rd Package as well as on a possible need for additional transparency requirements on the different parts of the gas value chain.

The public consultation questionnaire included 7 questions and offered space for comments. All in all, 32 responses from stakeholders from all parts of the gas value chain, including production, transmission, storage, LNG and trading were received.

2. Main results

Stakeholders broadly welcomed the possibility to express their views on the existing transparency requirements for natural gas. Some did however pointed out that a clear view on additional needs and the adequacy of existing rules could only be given after implementation of the 3rd Package provisions across all of Europe.

In general, the majority of respondents are satisfied with the transparency requirements for TSOs as well as with the transparency requirements outlined in the EREG Guidelines of Good Practice for LNG System Operators (GGP LNG)² and GGP for Third Party Access for Storage System Operators (GGP SSO)³.

Two issues triggered controversial reactions from stakeholders:

- The necessity (or not) of introducing (additional) transparency requirements in the

¹ Ref: E10-GWG-68-03, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/CLOSED%20PUBLIC%20CONSULTATIONS/GAS/Gas%20Transparency/CD

² Ref: E08-LNG-06-03, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Gas/2008/E08-LNG-06-03_GGPLNG_conclusions_7-May-08v2.pdf

³ Ref: E04-PC-01-14, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Gas/2005/EREG_GGPSSO_Approved2005-03-02%20updated%202011_07_14%20Clean.pdf

upstream/production sector and especially the issue of the degree to which the electricity and the gas sector can be compared and similar transparency requirements can be applied.

- To a lesser extent, respondents were split over the question of whether (or not) to make those transparency requirements in the GGP LNG and GGP SSO which are not covered by the 3rd Package yet legally binding.

Other controversial issues raised by stakeholders' responses include the need for further transparency requirements in general and the extent to which a difference should be made between regulated and not regulated sectors/facilities/infrastructure.

In summary, the points most frequently mentioned by stakeholders were the need (or not) for transparency requirements in the upstream sector, the need for timely and consistent implementation of existing transparency requirements, the question of whether the ERGEG survey should have taken place after implementation of the 3rd Package and the issue of quality of publication, which could be rather easily improved through technical and IT measures.

3. Summary per question

The first question intended to gather an overview of the **degree of satisfaction** of market participants with the existing legally binding and (at the time) soon-to-be legally binding transparency requirements for transmission, LNG and storage.

Approximately two thirds of those stakeholders who expressed a clear opinion said they were satisfied with current requirements. Some stakeholders made additional remarks, with the need for consistent and timely implementation across the whole EU being the most recurrent additional statement made.

A few stakeholders also pointed out that when considering transparency requirements, a distinction should be made for infrastructure "contributing to competition". Another frequent remark concerns definitions that should be clarified ("relevant point", "near real-time") as well as the quality and availability of data provided. Whereas one stakeholder responded that data on flows should be communicated only on an aggregated level, several other respondents were in favour of providing real-time data on flows in a more disaggregated manner. According to some respondents, there is also room for improvement with regard to user friendliness, i.e. the technical conditions for downloading data as availability of raw data, possibility to access past queries.

The second question asked about their level of satisfaction with regard to transparency requirements for **transmission system operators**. A slight majority of respondents were not

satisfied with the current level of transparency requirements for TSOs, with more respondents criticising the **quality of publication** than a general lack of requirements.

Among the remarks made concerning the quality of publication, some stakeholders call for an **EU-wide “definition of technical, available, booked capacity and other relevant terms”** and would welcome further harmonisation and a **transparent methodology for calculating** these values. Some stakeholders expressed a positive view with regard to the ENTSOG transparency platform⁴ which is perceived as a useful tool for providing static information in a consistent manner allowing easier comparison between TSO. However, some pointed out that the “relevant” information is missing on the platform and additionally it suffers according to respondents from some technical problems and lack of flexibility in possible queries. Several respondents pointed out that information should be published at the minimum at individual TSO web pages. However, several others suggested that publication in a near real-time manner should be done directly on the TSOs’ websites. Among the concrete suggestions made to improve the level of transparency for TSOs, some stakeholders mentioned the example of the United Kingdom and transparency practises in place to follow; some stakeholders urged for making available to individual shippers, in a timely manner, those information needed to balance their positions.

The degree of satisfaction of market participants with the **existing voluntary GGP LNG and GGP SSO** is generally high, two thirds of respondents said they were satisfied with it.

A few market participants made concrete suggestions for additional transparency requirements. Among them were non-discriminatory and transparent capacity allocation mechanisms and tariff structures for SSOs and information on capacity allocation, system-entry tariffs and more clarity over units used for LNG system operators.

Stakeholders were evenly split on the question of whether **those transparency requirements in the GGP LNG and GGP SSO which are not covered by the 3rd Package should become legally binding**, whereas consumer organisations asked for making them legally binding. Arguments against making the requirements legally binding were that the current provisions lead to a sufficient level of transparency and that requirements for competitive infrastructure do not have to be as prescriptive as those for natural monopoly sectors such as transmission. One stakeholder commented that the voluntary work of SSOs should be given due recognition and that the framework should evolve according to user’s needs. Several respondents said the issue should be considered again once the 3rd Package and its provisions were fully implemented.

The fifth question of the survey invited stakeholders to express their views on whether the **voluntary GGP LNG and GGP SSO shall include further transparency requirements**. Most participants were negative about this point and do not see a need for further transparency

⁴ www.gas-roads.eu

requirements. However, some stakeholder organisations did express their support for further requirements which should be developed in co-operation with them.

Those who consider that there is room for improvement and that further transparency requirements are needed provided the following concrete suggestions for additional provisions:

- For SSOs, the voluntary GGP could include provisions on congestion and anti-hoarding, criteria for the calculation of available (interruptible) capacity, the reasons and criteria for “capacity cutting”, availabilities (planned and unplanned) as well as actual flows at single facility level for those facilities that might have an impact on market outcomes.
- As far as LNG is concerned, the suggestions include requirements concerning monthly operating plans, load factor of the terminal, ship approval and tanker compatibility, gas quality requirements, tariffs and short term available capacity.

The clear focus of responses received to question six on whether there is an **area along the gas value chain (production, transmission, LNG, storage, distribution, wholesale market) where additional transparency requirements** are needed, was on production. Comments on whether production/the upstream sector should be subject to more stringent transparency requirements were received from many stakeholders with opinions varying widely. The two aspects mentioned most frequently with regard to production were notices of unplanned outages and maintenance.

Another part of the value chain that should be subject to transparency requirements according to some stakeholders is distribution. Some respondents asked for the same requirements to be applied to DSOs as to TSOs. Specific requirements for DSOs could include, according to respondents, timely and reliable ex-post information on final markets, such as the data on off takes at city gates or ex ante information on the composition of the final market (type of consumers, type of consumption, etc.).

Fewer stakeholders pointed out that transparency requirements for non-regulated parts of the value chain should be reinforced.

Several of those stakeholders who were not in favour of additional requirements for any part of the value chain underlined that the consistent implementation of current requirements should be prioritised.

Question seven of the survey has triggered the most controversial responses by asking stakeholders whether they thought **further transparency is required for the production (upstream) sector**. A substantial number of respondents, more than twice as much as being against it, said additional requirements were needed. Arguments for both sides were very similar

and concentrated on a few points in either case.

Those who expressed a negative view on additional requirements for the upstream sector, mainly producing companies, pointed out that additional transparency requirements for the upstream sector could expose the portfolios of individual market participants or producers, impact the value of investments made and reduce the readiness to make new investments, which could constitute a threat to security of supply for European consumers.

Another issue raised often was the difference between gas and electricity markets, which would explain, according to some stakeholders, why no additional transparency requirements should be put on the gas upstream sector. In addition, such provisions could disadvantage EU producers versus non-EU producers, cause a permanent rise in costs and lead to less liquidity and more volatility in gas markets.

Those in favour of additional transparency requirements argued in the opposite direction. For a number of respondents, there is no fundamental difference between power and gas markets and it is therefore appropriate to apply commensurate standards to both markets, including gas production. Information on unplanned outages of major infrastructure should be published simultaneously to the whole market in order to avoid any asymmetry of information according to these stakeholders. The argument of disadvantaged EU producers was rejected and it was suggested to apply the same transparency standard to all flows once they enter the EU. Respondents refused to accept that more transparency in the upstream sector would lead to increased volatility, but on the contrary help reducing it since the absence of a disclosure regime for gas production information itself creates uncertainty and impacts negatively on market liquidity according to them. To this end, two stakeholders explicitly called for the introduction of a UMM (urgent market messages) mechanism as a web-based, real-time notification of any relevant event such as outages of infrastructure (LNG, storage, interconnections, production fields etc.).

As a compromise, one respondent suggested that aggregated information on the ingoing and outgoing flows at relevant points should be published to the market on anonymous basis.

General remarks

Some stakeholders used the opportunity to provide additional comments. Many of them urged for a consistent and fast implementation of existing provisions and underlined the importance of a level-playing field with 3rd countries. Few stakeholders suggested carrying out an assessment of the costs and benefits of further transparency requirements.