

Comments by RWE-Transgas to the ERGEG Report on Monitoring the implementation of the GGPSSO

1) In Section 4, the overview of the fulfilment of the respective requirement (SSOs have prepared a document setting out terms and conditions related to use by an affiliate company) is very confusing as it levels different aspects of the fulfilment (type of company vs. type of document).

2) In the light of Article 25, para 1, letter f) of 2nd IGM Directive it is unclear how it is possible that an ERGEG report states that it is not sufficiently clear (from the response to the questionnaire) how certain SSOs comply with the anti-hoarding/sales on interruptible basis requirements (in Section 7 under Assessment of compliance against 4.4). NRAs are required to monitor the access conditions and respective NRAs should be able to interpret responses to the questionnaire by their respective SSOs.

3) In Section 8 under Assessment of compliance against 6.5, the report states that "the GGPSSO explicitly require that SSOs publish numerical data". It should be pointed out that the GGPSSO also require confidentiality and that the SSOs using the "traffic lights" make an effort to publish at least some kind of information instead of publishing nothing.

4) In section 8 under Assessment of compliance against 6.5b, the report states that "publication of use of capacity information is particularly valued by market participants as it allows them to form opinions about whether refusal of access is because of genuine capacity constraints or capacity hoarding". For this particular reason, it is not necessary to publish the data so soon after the real-time they refer to. A check-up of the kind may be carried out at a later date.

5) In Section 8 under Assessment of compliance against 6.5b/Users' views, the report states that "out of all responses, only two users have made a request to the SSO not to publish some information because it would harm their commercial interests. This may suggest that the commercial interest argument is not as strong as presented by some users." It is not possible to check up on the statement as ERGEG had set ex-ante to treat responses to this question as confidential. It is not clear why ERGEG had done so, especially with regards to the Y/N part of the question; this does not seem to be very transparent. Also, when assessing any response to such question, the position of the respective storage user (minor/major storage user) and the number of storage users in the respective storage facility need to be considered.

6) In Section 8 under Assessment of compliance 6.4 b/Users' views/Overall assessment of compliance, the report states that "the publication of the main commercial conditions is requested by the Directive" and that "this requirement does not seem yet to be implemented in some cases". It should be clear who fails or has failed to implement this requirement. In the cases mentioned it might actually be the Member States that fail/have failed to transpose the Directive into the national law.