



Mrs. Fay Geitona  
Secretary General  
CEER  
Rue le Titien 28  
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Belgium

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Dear Mrs. Geitona

**BG International Response to ERGEG Public Consultation on Open Seasons.**

BG International welcomes the opportunity to comment on ERGEG's Draft Guidelines of Good Practice on Open Season Procedures. BG International ("BG") is a subsidiary of BG Group which is active in gas exploration and production in both the UK and Norwegian sectors of the North Sea. BG supplies approximately 6% of UK gas demand, and is an active participant in the UK wholesale market, and at the Zeebrugge and TTF hubs. BG holds capacity rights in the Bacton-Zeebrugge Interconnector, and has capacity rights in Belgium. BG is also active in the LNG market with shares in various upstream liquefaction plants, as well as equity and capacity in the Dragon LNG terminal currently being built in the UK.

Our response includes detailed comments on your document below. However the bullet points below summarise what we believe should be the key features of any open season. These are based on experience of Open Seasons that are under way or have taken place, and the difficulties we encountered:

- Clear definitions of the quantity of capacity and associated costs on offer. As this is new capacity which will need to be built, the TSO should not be constrained by the amount of capacity that it offers; rather it should enable shippers to make informed judgements based on a clear indication of the expected costs for different levels of capacity. Where possible costs for long term capacity bookings should be fixed once the commitment is made. There should be clear rules as to how any cost overruns are shared between the TSO and the wider shipper community.
- Costs will need to be approved by the regulator ex ante or have strict limits as to how much they can be varied to avoid uncertainty which could prevent shippers from making informed booking decisions. Where costs are not approved ex ante they will need to be approved ex post by the regulator. There should be at least clarity as to how costs are derived (i.e. tariff methodology) prior to the Open Season.
- The timing of availability for new capacity should be clearly defined with provisions for liabilities in the event of late delivery of capacity by the TSO. As shippers will be expected to sign binding commitments for capacity, it is right that the TSO should have similar obligations to deliver the capacity as promised.

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- The TSO should publish a clear methodology as to how it will decide how much capacity it will build based on the offers it receives from shippers. As part of the process the TSO should keep shippers informed as to the likely level of capacity that the TSO would expect to build based on the offers it has received and the methodology described above. This will enable shippers to “fine tune” their bids for new capacity prior to the end of the process when shippers would be required to make final binding offers.
- There should be clarity and transparency as to how regulators will approve the investment that TSOs intend to make for inclusion in the TSOs’ Regulated Asset Base. Such transparency would include any economic tests that Regulators might apply. This will give TSOs the certainty they need in order to make investments, and shippers a clear view of what tests need to be met in order to trigger investment.
- Any binding commitments signed as part of the open season process should be symmetrical i.e. deadlines for shippers making binding commitments should mirror deadlines for the TSO.
- As part of the preparation for the Open Season process the TSO should ensure that there is maximum coordination and cooperation with neighbouring TSOs whose systems will connect to the planned new capacity. For significant new transit capacity requiring new investment by more than one TSO, this ideally would involve parallel and symmetrical open seasons by the relevant TSOs. This would ensure that cross border investment was optimised (i.e. that capacity in one system was not unused because of lack of capacity in a neighbouring system) and thereby enhance development of the internal European energy market.
- There should be a similar level of cooperation and coordination between the relevant neighbouring regulators to enable the process in the point above. Every effort should be made to ensure that cross border flows and trade are not inhibited due to difficulties in building new capacity. This is eminently achievable given that in the “old world” the current TSOs’ predecessors were able to coordinate delivery of new transit capacity. (The aim is to avoid the undesirable outcome where a shipper has booked capacity on both sides of a border, but is unable to use it because of the late delivery of capacity on one side of the border as a result of failure by the TSO.) Regulators need to consider common approaches to costs to avoid the problem where, for example, the cost of compression may vary simply because of which side of the border it is installed, due to different cost allocation regimes.
- All issues, such as cross border issues, timetables for resolving them, and potential impacts on the open season process should be clearly laid out at the start of the process, along with the way the TSO plans to manage the process in the event of the issues arising. For example if problems arise because of discussions with third parties such as neighbouring TSOs, the TSO should clearly lay out how a delay will impact the open season process and the timing for delivery of capacity.

#### **Issues for Consultation.**

- (a) *Are there new infrastructures to which the guidelines should not apply and if so why?*

BG believes these guidelines are best suited to Open Seasons for large new investments by regulated TSOs, or projects which are subject to rTPA. They should be applied irrespective of whether the TSO is fully unbundled from upstream or downstream affiliates.

They are less suited to small incremental investments by TSOs for reasons of cost and complexity. Nonetheless procedures for triggering smaller investment and the way in which shippers can buy such capacity need to be clearly laid out and subject to regulatory scrutiny.

BG does not believe that these guidelines should apply automatically to projects that are applying for exemption under Article 22 of the Second Gas Directive. There may be circumstances in which project developers do not wish to involve other parties. Article 22 requires that project developers satisfy national regulators and the European Commission that they meet the exemption criteria including that the project benefits competition. In such circumstances it should be up to developers to justify why they have not held an open season in accordance with the guidelines. This approach is consistent with the idea of using regulation only where necessary, and not imposing unnecessary regulatory burdens.

- (b) *Questions on the first step of the procedure i.e. the proposals to shippers. Are there any major items missing from the information requirements outlined in this section? Are the information requirements too prescriptive?*

Overall BG agrees with the information requirements outlined in Section 4.2. For regulated infrastructure the objective should be as transparent and clear process as possible. So long as the TSO works within its regulatory framework it faces less uncertainty than a normal commercial company because of the way investments which meet regulatory approval are included in its rate base. This certainty should also enable shippers to have a clear view of the process.

We have the following specific comments.

- It is essential that it is clear, prior to the start of any open season, what is the regulatory framework governing the open season process. This should include the methodology underlying tariff derivation, and the process whereby this is agreed between the TSO and the regulator. Without clarity on this issue companies will not be able to judge the economic attractiveness of capacity and will therefore be unable to provide investment signals to the TSO.
- It is also essential that all cross border issues are clearly highlighted, and how they impact the Open Season in question. This includes timing of investments in neighbouring countries, regulatory approvals required etc.
- There should also be details of anti hoarding mechanisms / Use it or Lose it rules governing the capacity which the TSO is offering. This enables potential shippers to understand the limits of their capacity rights.
- The Open Season should clearly describe how new investment will be triggered, for example what level of User Commitment is required for the TSO to gain regulatory approval to include the investment in its Regulated Asset Base. For the UK Long Term Entry Capacity Auctions National Grid publishes a methodology (Incremental Entry Capacity Release Statement) which details the circumstances under which NG will invest in additional capacity.
- It is not clear why interested parties need to tell the TSO what is their source of gas. In a competitive market this information is commercially sensitive, or uncertain as shippers should not need to show evidence of gas supply in order to be eligible to buy capacity. It is not clear how it helps inform the TSO. Of course the shipper may decide to tell the TSO the source of its gas if there are relevant issues (e.g. the need for gas quality conversion).

- (c) *Questions on the second step of the procedure i.e. the proposals to shippers. Are there any major items missing from the information requirements outlined in this section? Are the information requirements too prescriptive?*

BG is broadly in agreement with the points made in the Draft Guidelines. However we have the following specific comments.

- In paragraph 26 it is not clear why the amount of capacity that will be released should be limited. So long as there are no physical constraints on how much capacity can be built (e.g. due to geological reasons), and that the level of customer interest meets the regulatory tests to ensure that the investment is included in the Regulated Asset Base, there should be no reason why the TSO will not meet customer demand. New capacity should be considered as “unconstrained” and therefore, subject to the tests above, customers should be allocated what they have asked for.
- In paragraph 27 it is essential that there is a clear and agreed regulatory framework governing the sale of capacity.
- In paragraph 30 it is not clear why the names of prospective shippers and percentage of total capacity gained should be published. In a proper regulated third party access regime with robust anti hoarding mechanisms and means to enable secondary trading (e.g. bulletin boards) there is no advantage to be gained by publishing the names of shippers. Indeed such a step could work to the disadvantage of new entrants by revealing their commercial strategies. It is however appropriate that the aggregate amount of capacity booked is published.

(d) Questions on coordination with adjacent system operators?

BG believes that it is essential that there is coordination both between neighbouring TSOs and between neighbouring regulators to ensure maximum clarity and transparency of the processes governing investment in new capacity. Issues that such coordination should cover include:

- Timing and scale of investments
- Tariffs
- Timing of regulatory approvals.
- Operational issues such as gas quality specifications and pressures where two systems connect. There needs to be clarity in advance of an open season so shippers can make informed decisions when booking capacity.

It is also worth noting that, in order to participate effectively in Open Seasons, shippers need good information on the quantity, use and booking of existing capacity. For example, if existing capacity is fully booked but not utilised, shippers may decide to use interruptible capacity rather than book new capacity.

Should you have any queries please do not hesitate to contact me on ++ 44 118 929 3442 or at [alex.barnes@bg-group.com](mailto:alex.barnes@bg-group.com).

Yours sincerely

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