

ERGEG Gas Focus Group / Storage & Balancing TF

Guidelines for Good Practice for Gas Storage System Operators (GGPSSO)

Proposed outline - Storage National Reports

8 February 2006

Introduction

On 15 September 2005, during the 10th Madrid Forum, ERGEG presented the preliminary results of its first monitoring exercise on the implementation of the GGPSSO. The Forum asked ERGEG to produce a follow-up report on the implementation of the Guidelines for the 11th Madrid Forum, to be held in May 2006. On 7 December 2005, ERGEG published the final results of its report on "Monitoring the implementation of the GGPSSO". In parallel, ERGEG proposed to undertake a second monitoring exercise assessing the effectiveness of the GGPSSO, and the functioning of the market for storage services.

The two main findings of ERGEG's first monitoring report on the implementation of the GGPSSO were that:

- the level of implementation of some key areas of the GGPSSO was insufficient;
- compliance with some specific requirements of the GGPSSO needed further investigation, which might in some cases require **assessment at national level**.

The Terms of Reference of ERGEG's second monitoring report on the implementation of the GGPSSO, approved during the 17 January GFG meeting, call for a series of actions aimed at addressing these issues. As indicated in the Terms of Reference, it would be extremely helpful if each ERGEG member with storage facilities in their jurisdiction produced a short national report on storage (5 to 10 pages) (hereafter referred to as the "Storage National Report"). These reports should focus on those GGPSSO requirements which are easier to monitor at national level, e.g. confidentiality requirements.

The present document sets the basic outline of the Storage National Report. By outline, we mean a description of the main sections the Storage National Report ought to contain, in order to ensure a minimum degree of consistency between the different reports. The exact content of each section is however left to the discretion of ERGEG members, who are better positioned than the Gas Storage & Balancing TF to assess what issues are of critical importance in their respective markets.

The information presented in the 2005 Regulators' national reports should constitute the starting point.

The **deadline** for submitting the **completed Storage National Reports is 14th March 2006**.

Please return them to rcarnevalini@autorita.energia.it, pierre-marie.cussaguet@cre.fr and in copy to Rafael.Gonzalez@ceer-eu.org.

In order to ensure that all interested parties are consulted, ERGEG will send out a questionnaire to SSOs. Storage users will be consulted from May 2006, to gather their feedback on the implementation of the GGPSSO requirements after 1 April 2006. Their views will be particularly important in assessing implementation of the GGPSSO.

ERGEG intends to publish an initial report on the implementation of the GGPSSO in May 2006 and it expects to present its findings at the next Madrid Forum. ERGEG will issue a final report on implementation after it has an opportunity to consider responses to its initial report.

Any question on this questionnaire should be directed in the first instance to:

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1 Background information on storage in your country

1.1. Update of the information already presented in the 2005 Regulators' national reports, especially in case of further developments regarding the storage in market (or anything else affecting the storage market) in your country

There are 15 underground storage facilities in France (12 aquifers, 3 salt cavities). The working volume amounts to 11.1 bcm (total capacity: 25.8 bcm).

Gaz de France DGI and TIGF are the only storage system operators in France. Gaz de France DGI operates thirteen storage facilities spread across the country. TIGF operates two sites in the south west of the country.

The law of 9 August 2004 has introduced third-party negotiated access to underground natural gas storage facilities, transposing the directive of 26 June 2003. Prior to this, new suppliers did not have a right of direct access to storage facilities.

Gaz de France DGI and TIGF have recently published (Q1 2006) their new offers and tariffs for the new storage year (April 2006-March 2007).

1.2. Description of your competences in the area of storage and of the role of any other bodies/entities involved (where applicable examples of the decision making process would be helpful, i.e. for tariff/price setting or capacity allocation mechanisms).

The law of 9 August 2004 stipulates that access to storage facilities must be transparent and non-discriminatory and gives CRE powers to settle disputes, similar to those it holds for access to other electricity and gas infrastructures. CRE settled its first dispute with regard to access to storage on 8 March 2006.

The SSOs shall forward the contracts they sign to CRE, upon request.

The law also provides for the transfer of storage capacities to the new supplier if a customer changes supplier. The conditions for applying these measures will be defined by decree (prepared by the Ministry).

2 Effective implementation of the GGPSSO

2.1 Roles & responsibilities of Storage System Operators

2.2.1. Existence of a document setting out all terms and conditions for the use of storage by affiliates under GGPSSO § 1.3 and overall assessment:

- is such document in line with the general requirements of non discrimination contained in the GGPSSO?*

Both SSOs in France can be considered as part of a vertically integrated company in the sense of Article 2(20) of the Gas Directive:

For Gaz de France DGI, there is no legal separation between the SSO and other gas businesses of the overall company and in particular the supply business. The terms and conditions relating to storage use by Gaz de France supply business are set out in a “protocole”. CRE has received this document and has monitored that the objective of non discrimination is met.

The TIGF SSO operates as a “combined operator” in the sense of Article 19 of the Gas Directive. The combined SSO is legally separate from other gas businesses in the overall company. TIGF is a wholly owned subsidiary of Total. Total has also set up Tegaz (100% owned) in order to develop gas supply activities. CRE has received the contract between TIGF and Tegaz and has monitored that the objective of non-discrimination is met.

2.2 Necessary TPA services

2.2.1. Institutional arrangements surrounding exclusion of capacity from TPA:

- what entities are responsible for making decisions on this matter;*
- what role does each of them play in the overall process?*

In France, it is up to the SSO to determine how much capacity is being offered to market players.

In practice, some storage capacity (from the facilities of both SSOs) is reserved exclusively for transmission system operators in carrying out their functions. CRE is competent to audit the TSOs unbundled accounts and therefore is able to monitor that the facilities reserved exclusively for transmission system operators in carrying their functions (i.e. excluded from TPA) match the amount of capacity needed by the TSOs.

There is no capacity reserved exclusively for production operations.

2.2.2. Role of your regulatory authority (and any other bodies/entities involved) in designing the menu of services offered by the SSO:

- is it completely up to the SSO to design services offered or is a relevant national regulatory authority consulted or in charge of approving this offering?*

Access to storage in France is negotiated. Therefore, tariffs and general terms of access are set by the operators. National legislation does not provide any role for CRE (or any other relevant national authority) in designing the menu of services offered by the SSO.

CRE may take the initiative to conduct public consultation collecting all the players views and needs concerning the TPA access to storages. For instance, between 15 December 2004 and 14 January 2005, CRE conducted a public consultation on the tariffs and general terms of access to Gaz de France DGI and general terms of access to Gaz de France DGI and TIGF storage facilities. On 16 February 2005, CRE published the summary of replies to this public consultation, and also a communication requesting operators to make a series of improvements before 1 April 2005. In total, CRE has put out a list of 21 improvements to be made to access and storage offers. Following CRE's communication at the end of February, both SSOs announced improvements in their storage offers, mostly applied from 1 April 2005 (cf. 2.2.4).

The law of 9 August 2004 gives CRE powers to settle disputes, and therefore, CRE may play a role *ex post*.

2.2.3. Storage services tariffs/pricing methodologies:

- is your regulatory authority (or any relevant national regulatory authority) involved (e.g. by benchmarking storage tariffs, by regulating tariffs)?*

There is no formal competence in national legislation for CRE to be involved in setting or approving storage services pricing methodologies.

However, CRE has retained a consultancy to conduct a study of the main storage offers in Europe (Germany, Italy, Netherlands, England....) in order to benchmark the tariff levels applied by French SSOs with those applied by other European SSOs. The study is not completed yet.

2.2.4. Overall assessment of the menu of services offered by the SSO(s):

- are storage services offered in a way that facilitates competitive, non-discriminatory, and efficient access to best meet storage users' needs (in accordance with the requirements of the GGPSSO 3.3)?*

Both SSOs have notified CRE services that they plan to make the following improvements to their offers.

| | TIGF | Gaz de France DGI |
|--|-----------------------|--------------------------|
| Commercialisation of unbundled capacities (storage volume only; injection capacity and withdrawal capacity cannot be bought separately) | Yes | Yes |
| Set up of a secondary market of unbundled capacities | Yes by July 2006 | Yes by December 2006 |
| UIOLI rules for unused nominated capacities (day-ahead interruptible capacity release of non-nominated capacities) | Yes by September 2006 | Yes by April 2006 |
| Reduction of fixed terms and reversal of flow direction charge in the tariff 2006 vs.2005 | Yes | Yes |
| Bulletin board for secondary market to promote the exchanges of capacities between Storage customers | Yes | Yes |
| Storage price calculation tool | Yes | Yes |
| Transparency requirements | Yes | Yes |

Some of the improvements that were identified by CRE have not been implemented to date by the SSOs. In particular:

- storage users cannot trade unbundled services on the secondary market (Gaz de France DGI);
- the commercial offer of TIGF is not available in English (at the beginning of March 2006).

2.3 Capacity allocation and congestion management

2.3.1. Capacity allocation procedures and congestion management mechanisms, and the development of competition:

- *are these arrangements likely to create undue barriers to market entry and not prevent market participants, including new market entrants and companies with a small market share, from competing effectively (in accordance with the requirements of the GGPSSO 4.1.a&c) ?*

Gaz de France DGI and TIGF apply rules for allocation of storage capacities that they have designed. These rules are provisional. New rules will be defined by ministerial decrees required under the law of 9 August 2004.

For each end user, Gaz de France DGI defines a storage right according to the end user's annual consumption profile. End users are classified according to 12 profiles. A supplier's storage right in a balancing zone, equal to the sum of the storage rights of its customers in its zone, is then distributed between the various storage groups.

TIGF does not use the notion of profile. The storage right of a supplier is calculated directly according to its transmission capacity bookings and a standardised level of supply flexibility.

In order to calculate users storage rights, both SSOs take into account the portfolio of actual customers set the day of this demand.

In February 2006, Gaz de France DGI organised storage capacity auctions for the storage year 2006/2007. 400 GWh of new storage capacity developed on two groups of storage facilities (Centre and Ile de France Nord) were auctioned and sold. The price was higher than the usual tariffs. Gaz de France DGI has announced that any new capacity developed during the 2006/2007 storage year would be auctioned.

On 8 March 2006, CRE settled its first dispute with regard to access to storage between the plaintiff Altergaz (new entrant on the French market) and the defendant Gaz de France DGI. CRE settled that the capacity allocation rules designed and applied by Gaz de France DGI were in accordance with the law. However, CRE is giving Gaz de France DGI 15 days to review and amend the standard storage contract clauses with regard to the transfer of storage capacities to the new supplier if a customer changes supplier ("capacity follows the customer"). Gaz de France DGI shall amend and make public the relevant clauses in the standard storage contract and ensure that the gas-in-store is transferred under transparent and non-discriminatory conditions. The gas-in-store price shall reflect the building of the stock i.e. as if the gas had been purchased every day at the market reference price, in order to be injected following a theoretical reference profile, and stored at the price displayed by Gaz de France DGI.

In April 2006, Gaz de France DGI organised storage capacity auctions for the 450 GWh associated to storage rights of the customers which will be connected to the grid in 2006 and after 1 April 2006. This offer was open to all suppliers holding a supply license issued by the administration in France.

2.3.2. Description of the relationship between storage contract durations and capacity allocation procedures / congestion management

Not applicable in France (contracts are allocated on an annual basis)

2.3.3. Description of the relationship between PSO (Public Service Obligations) and capacity allocation procedures/congestion management

According to the law, gas stocks shall be used in priority for meeting:

- TSOs needs in carrying their functions (including balancing);
- the needs of household customers, non-interruptible customers and other customers in charge of fulfilling some other general interest duties are met;
- other PSOs, as provided for national legislation (PSOs are placed on TSOs, DSOs, LNG operators, SSOs and suppliers but some of these PSOs do not necessarily imply the use of gas stocks).

SSOs have designed their capacity allocation/congestion management procedures taking into account these provisions.

2.4 Confidentiality

2.4.1. Overall assessment of the arrangements in place to ensure that no information available to the SSO concerning its storage business is passed to other parts of the any affiliate (e.g. databases related to storage operations kept separate, new IT systems being developed in vertically integrated

undertakings developed separately for the storage business, separate buildings for the SSO and for the supply business):

- *have these arrangements been monitored and by whom?*
- *are these arrangements effective?*

SSOs (as well as TSOs, DSOs and LNG operators) shall protect the confidentiality of information as provided for by a decree and criminal penalties may be imposed if the decree provisions are infringed.

CRE is also informed of the arrangements taken by the operators in the field of confidentiality.

Gaz de France DGI

The SSO is part of the “Infrastructures Directorate”, also comprising the LNG operator. This directorate is not separate in its legal form from the supply business.

The SSO and the supply business are located in separate buildings. Databases are kept separate.

TIGF

TIGF operates as a “combined operator” (transmission, storage and LNG operations) in the sense of Article 19 of the Gas Directive. According to the provisions of the directive, which are transposed into national legislation, TSOs and DSOs shall establish a compliance programme.

The TIGF compliance programme of the network operator applies to all staff working on the transmission or storage side. It has been forwarded to CRE and is published on the TIGF website.

The TIGF combined operator and the supply business (Tegaz) are located in separate buildings. Databases are kept separate.

2.4.2. Overview of the content of the code of conduct/compliance programme with main strengths/weaknesses highlighted

Gaz de France DGI

A compliance programme was drafted by the “Infrastructure Directorate” and has been forwarded to CRE. This compliance programme is not published on the website. Gaz de France DGI will publish it by April 2006.

TIGF

The TIGF compliance programme of the network operator is published on its website (“code de bonne conduite”). The objective of this document is to prevent any discrimination, ensure transparency and protect any commercially sensitive information.

Some of the steps taken to ensure appropriate arrangements are in place to protect the confidentiality of information apply also to the storage activity. The compliance programme is under implementation.

2.4.3. If compliance to the confidentiality requirements of the GGPSSO is poor:

- is it an issue for the development of the market for the storage capacity?*

The arrangements in place to protect the confidentiality of the commercially sensitive information appear to comply with the GGPSSO requirements. However, as far as Gaz de France DGI is concerned, the lack of legal unbundling between the SSO and the supply branch may raise concerns among suppliers and lead them to think that the SSO is not totally independent.

2.5 Transparency

2.5.1. Description, where applicable, of the process followed in case some of the information required by the GGPSSO is not published by the SSO(s) in your jurisdiction (e.g. notification to national regulator)

There is no formal competence in national legislation for CRE in this area. CRE has hold informal discussions with the SSOs on transparency.

Till April 2006, historical utilization rates were not published by French SSOs. Some of the information which was not published on the website (i.e. historical utilization rate) was available to the regulator.

Since 1 April 2006, both SSOs publish the historical rates each week for the immediately preceding week (withdrawn/ injected quantity (in GWh) and withdrawal/ injection rate). Stock values (in GWh) for each of the storage groups are also published each week for the immediately preceding week.

The aggregated data of all groups are published automatically, the number of customers in each group should being three or more.

2.5.2. Description, where applicable, of the process followed in case a storage user has made a request to a SSO so that the information about the aggregate use of storage is not published (e.g. review of the decision made by to national regulator).

No formal process provided for in national legislation.

2.6 Secondary markets

2.6.1. General assessment of the extent to which secondary markets are developed or undeveloped in your jurisdiction

Gaz de France DGI and TIGF have developed a bulletin board for secondary market. TIGF publish user's reference – subject to their authorisation – so that potential buyers/sellers can be identified easily.

So far, it seems that the development of secondary capacity market is still limited.

3 Need for other measures beyond the GGPSSO

3.1. Proposal of additional measures, at European level, if indeed the GGPSSO are not sufficient to ensure fair, transparent and non discriminatory conditions for access to storage, in the light and in the spirit of Directive 2003/55.

- The GGPSSO transparency requirements could be reviewed (e.g. publication of gas-in-store levels?) and made more precise;
- The scope of the GGPSSO confidentiality requirements could be broader (i.e. focusing not only on the necessity to protect the confidentiality of the commercially sensitive information, but also on the independence of the SSO);
- The powers of regulators could be strengthened and harmonised;
- CRE considers that, in France, third-party access to storage should be regulated, rather than negotiated, given the essential role of storage for supplying consumers during the winter period and given the traditional operators' natural monopoly in terms of storage.