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Please find enclosed response of Polish Oil and Gas Company under ERGEG public consultation on Assessment of CAM and CMP for effective access to storage and the proposals for amendment of existing Guidelines of Good Practice of Storage System Operators. (Ref: E10-GST-09-06).

*Best regards,*

Wiceprezes Zarządu

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**Public consultation on Assessment of CAM and CMP for effective access to storage and the proposals for amendment of existing Guidelines of Good Practice of Storage System Operators. (Ref: E10-GST-09-06).**

**Response of Polish Oil and Gas Company**

**Public Consultations Questions**

**1.To what extent do you agree that auction is the best allocation mechanism for storage and what will be the implications ?**

Use of auctioning as the capacity allocation mechanism has a number of advantages. It is, among others, non-discriminatory, transparent, and it provides valid economic signals for efficient use of capacity as well as investment in new capacity by the SSOs. On the other hand, in case of auctioning the price of storage capacity is unknown and it may be potentially high if demand significantly exceeds the offer, constituting an entry barrier for new market participants. This drawback is absent, for instance, in case of pro rata allocation mechanism.

Importantly, the abovementioned pitfalls primarily concern markets with relatively low storage capacity and weak competition, e.g. Poland. These potential drawbacks are less likely to appear in the markets with relatively high storage capacity and relatively strong competition, e.g. Germany. In consequence, a choice of the most suitable CAM should be determined by the market structure.

Additionally, it shall be borne in mind that auctions cannot be used as CAM in those member states where prices are regulated (i.e. tariffs are subject to approval by the NRAs, e.g. Poland). Application of pro rata mechanism (with a reasonable time for orders submission) is the optimal solution in such cases – provided the rules are transparent, objective and non discriminatory. However, with regards to short-term products and services which require fast distribution, the FCFS is the most suitable mechanism.

**2. In your opinion, what are the most important aspects regarding transparency that should minimally be addressed by SSOs for both CAM and CMP?**

Transparency of the storage market requires disclosure of certain data. As for the most important information displayed by the SSOs, these should include:

- Information on contracted and available storage capacity provided on regular and rolling basis,
- Information on the amount of gas in each storage or group of storage facilities,
- Aggregated daily flow levels (in/out),
- Maximum injection and withdrawal rates.

Moreover, transparency requires displaying the abovementioned data in an accessible manner. For this reason all the necessary information should be made available:

- on the internet,
- in a standardised user-friendly format, and
- in at least two languages – the national one and in English.

**3. In your opinion, what is most important when designing UIOLI (including products and contracts) as to leave a storage user the flexibility to use its storage capacity when needed ?**

It is essential to distinguish a day-ahead interruptible UIOLI mechanism and a firm UIOLI mechanism.

As for the former, availability of a short-term product may lead to rising liquidity of the market. At the same time, a day-ahead interruptible UIOLI allows to maintain the sanctity of the firm contract.

The day-ahead interruptible UIOLI mechanism should include solutions set below:

- The amount of the UIOLI capacity to be made available to the market shall be determined by the SSOs (base on nominations);
- The amount of the UIOLI capacity to be made available to the market shall be determined on basis of the difference between total booked capacity and total nominations made by the holders during the nomination process;
- The risk of potential interruption of the capacity should be borne by the user of the interruptible short-term capacity (described in the storage code).

As for the firm UIOLI mechanism, nothing should disturb the sanctity of firm contracts, unless capacity hoarding is proven. In such case shippers should be entitled to take advantage of the UIOLI mechanism within the prescribed period of time. Only if within that time shippers do not sell the unused capacity on the secondary market, should the UIOLI procedure be triggered. Additionally, application of UIOLI mechanisms should be subject to request of firm storage capacity by third parties.



Short-term interruptible storage capacities resulting from UIOLI mechanism can only be allocated to the users who have booked adequate transport capacities.

**4. In your opinion, to what extent should offered services and terms & conditions on secondary markets be standardised as to improve secondary trade of storage capacity? Is standardisation a way forward to enhance liquidity of secondary markets? What aspects of secondary markets (products, contracts, etc.) are the priorities to be harmonised?**

Most importantly, to boost liquidity of secondary markets it is crucial to standardise terms and conditions under which the unused storage capacities are offered to other market players. Not only would it contribute to achieving increased market transparency, but also to cutting transaction costs. Moreover, facilitated and standardised re-selling procedures in form of, for instance, standard contract templates would lower the administrative barriers to trading activities and thus facilitate trade between market participants and discourage hoarding.

However, standardisation of products and services offered by different SSO's in different countries would be very difficult to achieve taking into consideration:

- Different technical characteristics of each storage facility,
- Different regulatory approach among countries (regulated vs non-regulated prices),
- Different rules/laws regarding the rights of an owner.

**5. To what extent do you agree that (next to probability of interruption) pay-as-used can be applied as a pricing strategy for storage prices that are not regulated and what other pricing strategies would be suitable? How can pricing strategies incentivise new investment in storage and efficient use of storage?**

In order to prevent capacity hoarding in cases of contractual congestion, the unused storage capacities have to be offered on the primary market at least on a day-ahead and interruptible basis<sup>1</sup>. Certain features of pay-as-used pricing method make this strategy not suitable for implementation on the secondary storage markets. Since payment for the services is done only after the delivery of the service, the pay-as-used strategy may encourage capacity hoarding on the secondary markets. Moreover, the price for such a contract would have to be higher due to the fact that SSO would accept more risk.

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<sup>1</sup> Article 17 (3)(a) of Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) 1775/2005.

Applying a pricing method where interruptible storage price reflects probability of interruptions would be, in our opinion, more adequate for the secondary markets.

**6. In your opinion, to what extent do you consider that combined products (i.e. storage services offered at virtual hubs) of storage and transport capacities are a useful and efficient service?**

Such products may be offered based on the voluntary cooperation between SSO and TSO, if there is demand for it, but without any obligation.

**7. In your opinion, what market mechanism (incentive) should be in place to stimulate a storage user to offer any unused capacity on the secondary market?**

There are several market mechanisms/incentives that could allow a storage user to offer unused capacity on the secondary market, such as:

- transparent and clear rules of offering unused capacity on the secondary market,
- possibility to offer unused capacity not only through storage capacity platforms,
- possibility to offer on the secondary market injectability, capacity as well as deliverability rights separately,
- possibility of reselling storage capacity for shorter period than it is contracted.

**8. In your opinion, to what extent is the (cross-border) offering of storage products/combined transport-storage products useful to market parties and what should these products (e.g. minimum requirements) look like?**

See answer to question 6.

**9. To what extent do you consider the proposals will facilitate allocation and congestion management of storage capacity? What other measures should be in place**

We agree that some of the proposals can largely contribute to facilitation of allocation and congestion management of storage capacities. These include all measures with respect to market transparency (see answer to question no. 2) and non-discriminatory access to storage services (e.g. detailed publication of timing, schedule and results of applied allocation mechanisms, compatibility of storage capacity allocation mechanisms with the transport capacity allocation mechanisms), and standardisation of secondary markets (but limited to harmonizing terms and conditions for access to storage – for more details see



answer to question no. 4). We also welcome an exception from implementation of auctions for allocation of all storage capacity. Although such a solution indicates auctions as CAM of the first choice, it also takes into account a possibility to apply other CAMs and acknowledges the priority of national legislation provisions within this scope (see answer to question no. 1). Yet another element of the discussed proposal that may facilitate congestion management concerns SSOs obligation to strive to maximize interruptible capacity products offer on a short-term basis (see answer to question no. 3).

On the contrary, we remain skeptical about developing combined storage and transport capacities as one product (detailed explanation in answer to question no. 6). Furthermore, all the proposals concerning immediate offering of unused capacities on day-ahead basis should be taken into serious consideration. Not only should such regulations take into account the differences in technical properties of gas storages, but also some restrictions like the obligation to maintain strategic gas reserves and to fulfill agreements with existing storage users. We strongly oppose to any proposals leading to endowment of NRAs with new competences, including the capacity to define and introduce more detailed measures/provisions to manage congestions and capacity use, to review and define CAMs or to initiate consultations with the market (see answer to question no. 10). In our view, the competences regarding transparency and non-discriminatory access should suffice to achieve objectives of the proposed amendments.

Last but not least, the cross-border consultation regarding the offered products may bring no advantage because gas storage systems in different countries vary between each other.

**9.1 In particular, what possibilities do you see to enhance efficient use of storage, reserved for public service obligations like e.g. strategic storage or other reserved storage? Under which conditions would additional use of such storage as (interruptible) short-term product or remarketing on secondary market be acceptable? Could you give examples from your day-day experience?**

Storage capacity used for public service obligations (PSO) is considered to be a part of a storage facility (additional laws regulating PSO exist in several EU countries). However, the nature of storage capacity used for PSOs should be taken into account when discussing an evolution of regulatory regime. Hence, application of a firm UIOLI/UIOSI mechanism to the capacity in question should not be allowed as it could potentially impede fulfillment of PSOs.

This is also the case with remarketing storage capacity on secondary market. It would create an opportunity for storage capacity holders to benefit from trading the capacity which they

should use for fulfillment of PSOs, thus compromising a special status of PSOs for commercial aims.

On contrary, an interruptible UIOLI mechanism with regard to injection/withdrawal capacity is not contradictory to the nature and aim of PSOs. The unused capacity (injection or withdrawal capacities) may be offered on short-term interruptible basis (until there is a need to inject or withdraw strategic volumes).

**(9.2) In particular, what best practice for CAM and CMP should be in place for specific cases when parts of LNG terminal facility potentially function as storage capacity? Could you give examples from your day-day experience?**

The standards should reflect the specific operating conditions of the LNG terminal.

**10. To what extent would you agree NRAs should be endowed with additional competences in developing CAM and CMP?**

With regards to CAM and CMP, no additional competences should be endowed with NRAs. The current scope of NRAs capacities – including monitoring the level of storage capacity, monitoring the level of transparency, ensuring compliance of natural gas undertakings with transparency obligations and ensuring non-discriminatory access to storage facilities – is by far adequate. Any decisions on issues regarding storage capacities management should be exclusively reserved for the SSOs, given the fact that no other entity is close enough to daily operations of storage facilities.