

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

NATIONAL ENERGY COMMISSION - SPAIN

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 have not been specific major regulatory changes on storage issues, since the date the previous information was sent, on May 2005.

Nevertheless, it has been published an important regulatory development, related to the whole gas system and, in particular, that also affects the storage market. This is the Network Code, containing the technical management rules for the gas system (approved on October 2005). It contains some definitions on storage capacities, general requirements for the use of underground storage facilities, principles to calculate the capacity of installations, scheduling, nominations, balancing, emergency plans, etc.

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 last responsible body for storage regulation is the Ministry of Industry, who sets the access regime conditions, the capacity allocation mechanisms, the tariffs, etc.

The National Energy Commission participates in this regulation process as a consultative body, by the emission of a compulsory report that can be taken or not (or partially, what is the most common situation) into consideration by the Ministry. This Commission has also been responsible for proposing the standard access contracts to the storage facilities, which finally were approved by the Ministry.

The CORES (Corporación de Reservas Estratégicas de Productos Petrolíferos) is responsible for supervising the maintenance of security stocks by the different agents (35 days of their firm sales / consumption, as explained below)

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?*

The Spanish Gas Storage System Operator, ENAGAS, develops only transmission activities, owning (not all of them but the majority) and managing transmission high-pressure pipelines, LNG plants, and underground storages. According to the current Legislation, ENAGAS is also responsible for the supplies of gas addressed to the regulated market.

There is an ownership unbundling provided for this agent. Its shareholding is limited to the maximum participation of 5% for any agent. ENAGAS has no affiliates, so it doesn't have interest on trading activities or on the supply to the liberalized market.

Nevertheless, ENAGAS could be considered as a user of the underground storage capacity, besides managing also the part reserved for operational purposes. In this sense, the Network Code establishes that any users shall be entitled to make use of gas injection and withdrawal capacity in each storage facility proportional to the storage capacity contracted for the liberalised market or reserved for the tariff market with regard to the storage capacity. In consequence, all users have the same obligations and rights of access.

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 our system, only the part of the storage used for operational purposes is excluded from TPA. The main role on this matter is developed by the GTS (Gestor Técnico del Sistema, in charge of System Operator, including also Storage System Operation), who, at the end, is the player that has in depth expertise and knowledge of the physics of the system.

In principle, the SSO has incentives to offer to the market as much capacity as possible. In any case, the regulators have the power to supervise the SSO actions.

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?*

The last responsible for this task is the Ministry of Industry, that usually takes into consideration gas system agents opinions. The CNE participates, at least, in the final steps, providing advice on the Ministry proposal.

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)?*

The last responsible for this task is the Ministry of Industry. In any case, the CNE has been asked to study the costs of the system and to develop a new tariff methodology for all the regulated activities that includes the storage TPA tariffs. The results must finally be proposed to the Ministry and approved by them.

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)?*

The storage services are offered, according to the Legislation, following the non – discriminatory first come first served principle. In case of congestion, the injectability and withdrawal capacity is allocated by a pro rata process, proportionally to the storage capacity reservation.

The duration of the contracts is not legally limited, and can last from one day to many years.

There is a provision that reserves, at least, the 25% of the total capacity for short – term contracts (with duration equal or under 2 years). Nevertheless, according to the information provided by the SSO, the majority of the contracts are held on a short-term basis.

Injectability and withdrawal capacity is allocated proportionally to the storage capacity reservation. But in case of non use, the spare capacity is offered to the market, that would have only to pay the variable part of the storage tariff.

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) ?*

The capacity allocation mechanism used is the first come first served principle, and in case of congestion, the injectability and withdrawal capacity is allocated by a pro rata process, proportionally to the storage capacity reservation. Use it or lose it principle is also in place, and can be activated after six months of capacity underutilization.

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

The duration of the contracts is not legally limited, and can last from one day to many years. There is a provision that reserves, at least, the 25% of the total capacity for short – term contracts (with duration equal or under 2 years).

There is not relationship between the storage contract durations and capacity allocation procedures/ congestion management.

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

There is a public service obligation affecting the storage use. This is the provision that obliges any agent importing gas addressed to the firm market, to provide with minimum security stocks, equivalent to thirty five days of their definite sales / consumptions.

In our system, there is also a part of the storage used for operational purposes (modulation, safety and security of supply), that is excluded from TPA.

There is not relationship between the PSO and the capacity allocation procedures. Capacity is assigned on a first-come-first-served basis, independently from the fulfilment of each agent of the PSO provision.

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?*

As it has been said before, the Spanish Gas Storage System Operator, ENAGAS, develops only transmission activities, owning (not all of them but the majority) and managing transmission high-pressure pipelines, LNG plants, and underground storages. According to the current Legislation, ENAGAS is also responsible for the supplies of gas addressed to the regulated market.

There is an ownership unbundling provided for this agent. Its shareholding is limited to the maximum participation of 5% for any agent. ENAGAS has no affiliates, so it doesn't have interest on trading activities or on the supply to the liberalized market.

Nevertheless, ENAGAS could be considered as a user of the underground storage capacity, besides managing also the part reserved for operational purposes, given the fact that it has to deal with supplies addressed to the regulated market.

There is an accounting separation between the different transmission activities (transmission by pipeline and supply to the regulated market, LNG and storage activities)

but ENAGAS doesn't kept separate databases independent from the rest of transmission activities. We believe that there is no need to do it.

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

No code of conduct established. In any case, the regulator is entitled to supervise and verify the information provided by the Storage System Operator. In particular, that this information is accurate and offered to any agents on the same time scale and on a non – discriminatory basis.

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?*

Non applicable.

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)

The SSO regularly informs this Commission about the transparency improvements achieved: new information provided on its web site, improvement of the information already offered, etc.

As it can be observed in the actualization of the SSO answers to the questionnaire circulated the last year, there is a notable improvement in the transparency section. The SSO is publishing now more information, considered in the Guidelines, than before. In any case, there is always room to get better, for example, publishing more sections not only in Spanish but also in English.

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).

Up to this moment, we don't have had notice about such a request. All the information concerning the use of the storages, published by the SSO, is aggregated. As there are many storage users, (at present 13 agents own storage capacity rights) confidentiality problems derived from the publication of aggregated date, haven't arisen.

2.6 Secondary markets

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

Capacity secondary markets have not been yet implemented in our national regulatory system and, in consequence, until now it is not possible for agents to trade with their storage capacity.

Nevertheless, the Government has made public the intention to develop the secondary capacity market, during the first months of 2006. This Commission would have to report on the proposal for such development.

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.

According to our national experience, we do not consider that further developments on Storage provisions, in addition to the GGPSSO, would be needed.