# EFET comments on Draft Guidelines of Good Practice on Third Party Access for LNG System operators (GGPLNG) – ERGEG Public Consultation Paper Ref E07-LNG-03-06 11 December '07

In our view the primary aim of GGPLNG should be to enhance free trade and movement of LNG across the EU. LNG movements should respond to market prices and the objectives of GGPLNG should be to ensure that no barriers to this exist.

The key points in relation to GGPLNG that EFET wishes to make can be summarised as follows:

- EFET supports the harmonisation (where practicable and appropriate) of trading arrangements at LNG importation facilities (whether regulated or TPA exempt) in order to stimulate the development of trading on secondary markets
- Where practicable EFET supports harmonisation of arrangements to facilitate trading between regulated and TPA exempt facilities
- GGPLNG should avoid being overly prescriptive in respect of how bundled and unbundled services should be offered so that no barriers are created to innovation and product differentiation in the market. The level of prescriptiveness of the guidelines is about right and provides flexibility for regulatory authorities to recognise the practical differences between different terminals.
- EFET supports appropriate information release in a consistent and user friendly format. This will stimulate the development of traded markets
- To help improve trading opportunities in the short term and achieve a more consistent regime in the longer term, there are some basic requirements regarding information provision and standardisation (where practicable) of UIOLI products that may be usefully applied to all LNG import terminals
- The market should be free to deliver innovative products to meet demand rather than be subject to the imposition of prescriptive solutions.This will help facilitate the free trade and flow of LNG.
- It is crucial that LSOs do not create barriers to the development of secondary markets by not putting in place the necessary arrangements to facilitate the market once there is a recognised need.
- Cross subsidies should be avoided and any which exist at existing regulated facilities removed

**Preliminary comments**

EFET agrees that the guidelines should apply to regulated terminals. EFET does not believe that the guidelines should apply to exempt terminals; however EFET recognizes that regulators may wish to take the guidelines into account when setting the framework to apply to new projects applying for exemption under article 22.

As an organisation designed to improve the conditions of energy trading in Europe and to promote the development of a sustainable and liquid European wholesale market, we consider that the final aim/objective of this GGPLNG should be to set the necessary guidelines to allow the free trade and movement of LNG across the EU

In order to assist ERGEG EFET's detailed comments on the draft guidelines are provided below with reference to the specific questions raised in the consultation.

I. The GGPLNG aim is to boost effective, appropriately homogeneous and non-discriminatory, third party access to European LNG terminals without being detrimental to new investments. How could TPA/harmonisation and investment be conciliated?

GGPLNG should not impact investment incentives if (i) an appropriate TPA exemption regime is maintained and exemption requests are properly and prudently considered by regulators and (ii) the GGPLNG do not prevent the developer from earning a fair and adequate return on its investments. As long as the GGPLNG apply only to the logistic and operational characteristics of the facility, and the operator is still permitted to set prudent rates, subject to regulatory approval, or seek TPA exemption where justified, then investment incentives will still exist. In other words, the investment incentives should depend on the cost recovery structure and not how the facility is operated with respect to granting TPA to the facility. We encourage ERGEG to continue to pursue GGPLNG while keeping cost recovery issues separate.

It is important to recognise the need for a balance between facilitating third party access and ensuring that incentives remain to invest in new infrastructure and to ensure that legitimate interests of primary capacity holders, perhaps under a different regulatory regime pre GGPLNG are taken into consideration.

If primary capacity investment incentives are significantly eroded as a result of adopting GGPLNG there could be a 'knock on' effect for third party access and secondary trading of capacity because less primary capacity would be built in future (which might then have been made available on the secondary market). Similarly, if TPA arrangements are insufficiently attractive then market arrangements will be less than optimal. What is needed is a delicate balance which may be achieved from the development of a well functioning non discriminatory primary and secondary capacity market arrangements

Having a well functioning secondary market for terminal capacity will both facilitate appropriate third party access at the same time as preserving the benefits for the primary capacity holders in the facilities as they would have the opportunity to receive market prices for any capacity not used and offered for sale through the secondary market.

It is crucial that the GGPLNG does not create barriers for investors that want to bring forward projects as this would have a negative impact on the development of more competitive and integrated markets and on security of supply.

II. The GGPLNG aims at facilitating harmonisation of services, procedures, conditions... in order to foster interoperability and facilitate access to regulated LNG facilities. To what extent is harmonisation of regulated access procedures convenient/possible? Which areas should be harmonised (i.e. transparency, network code procedures, balancing rules etc.)? Is the current degree of detail and prescriptiveness of the GGPLNG considered adequate? Is the need for common EU-wide requirements adequately balanced against the need for flexible rules?

The level of harmonization that might be achieved across terminals is less important than the ability for users to access the networks downstream of an LNG terminal on a fair and non-discriminatory basis. Insufficient capacity downstream and/or access arrangements that are incompatible with those at an LNG terminal can create real barriers for the free flow and trade of LNG. Hence third party access provisions to LNG services and facilities are not always the primary issue. Nevertheless, in these situations, appropriate TPA access arrangements will still have a positive impact and it can be argued that it would be useful that these are in place for a time when in future, any downstream bottlenecks have been removed.

With respect to standardisation / harmonisation it is appropriate to harmonize some minimum requirements, at both regulated and exempted LNG terminals, e.g.ship approval procedures.

It would be useful to develop an understanding of the magnitude of the benefits that are envisaged to arise in terms of consistency – balanced against the inflexibility that may arise

from pushing towards a 'one size fits all' solution that would be inherently inflexible and which may not reflect the technical characteristics at individual LNG terminals – and could therefore inhibit commercial innovation.

It is also important to remember that the LNG market is a world market and therefore a more prescriptive approach in the EU (with less flexibility) could place it at a competitive disadvantage to other markets, potentially reducing the flow of LNG to EU.

Paragraph 22 discusses LSO cooperation in order to make scheduling procedures compatible among LNG facilities. It would be useful to understand whether there are any implications arising from competition law from any such proposals e.g. potentially arising from sharing of information between competing terminals. There may also be a limit to the level of compatibility that can be achieved in scheduling procedures due to different technical characteristics at individual LNG terminals.

We consider the level of prescriptiveness of the draft GGPLNG to be about right overall. It is important that the regulatory regime does not become overly prescriptive in terms of harmonisation as a tendency towards a 'one size fits all' solution would be inherently inflexible.

III. Considering the voluntary character of the GGPLNG it would be interesting to know what transitional effects you think the GGPLNG implementation could cause, and what could the implementation cost be in your particular case. Are you going to get benefits (commercial, decrease of management cost etc.) with the GGPLNG application?
We believe that there is merit in considering the impacts on existing facilities and users and to understand any transitional effects caused by the implementation of the new guidance. Further it would be helpful to understand whether some kind of transitional cost mechanism should be imposed; of course any additional costs that are recovered would need to be assessed carefully by the relevant regulatory authority to ensure that they were efficiently incurred and charged on a non-discriminatiory basis to all users.

We consider that uncertainty associated with the development of GGPLNG may in some cases discourage or delay the building of new LNG importation capacity until greater certainty of the forward arrangements is achieved.

IV. The GGPLNG do not apply to terminals exempted under Article 22 of Directive 2003/55/EC. In your view, could there be any value for regulators to use some recommendations in the GGPLNG as an input when adopting individual exemption decisions (for example, as approval requirements when granting a conditional exemption). If yes, please explain why and with regard to which aspects of the GGPLNG (e.g., services definition, transparency obligations etc.)?

EFET agrees that the guidelines should apply to regulated terminals. EFET does not believe that the guidelines should apply to exempt terminals; however EFET recognizes that regulators may wish to take the guidelines into account when setting the framework to apply to new projects applying for exemption under article 22.

To help improve trading opportunities in the short term and achieve a more consistent regime in the longer term, there are some basic requirements regarding information provision and standardisation (where practical) of UIOLI products that may be usefully applied to all terminals.

Tariffs for access to the system

V. The GGPLNG establish that tariff structure should be reviewed on a regular basis. Would the GGPLNG fix a minimum and/or maximum frequency for such a review? Which frequency(ies) should be the appropriate?

We would like to point out that in some member states there are cross subsidies in LNG tariffs which create significant distortions in market functioning.This situation should be address as a first step as we believe it does not give the right signals to the market

In paragraph 3.2.d the draft suggests that the cost based tariff structures should be regularly reviewed but leaves open to interpretation the question of frequency. Whilst prescriptive guidance would not be beneficial, there is a balance to be struck between over frequent review which brings with it uncertainty, excessive administration and complexity for market participants, and too infrequent review which might render arrangements inflexible, outdated and unable to respond to market changes. It may be more appropriate therefore to strengthen paragraph 3.2 to reflect these issues – in order to give additional guidance.

In EFET's view a biannual review process would probably strike an appropriate balance.

TPA services

VI. The GGPLNG assume that there may be benefits for the liquidity of the capacity market and for the system efficiency in offering not bundled and interruptible services in addition to bundled and firm services. Do market players agree with this statement? What could be your interest in offering/contracting not bundled services and/or interruptible capacity? What type of services should be offered as no-bundled? What type of services should be offered as interruptible? Should the GGPLNG be more/less prescriptive on these issues?

We agree that the sale of unbundled capacity could improve utilization of the product, and that definitions of basic services could be included in the GGPLNG.

EFET agrees with the statement in 4.2 9b that the offer of unbundled services should not reduce the amount of bundled services available. It is important to recognise the practical considerations for offering unbundled services as berthing slots, temporary storage and sendout are inextricably linked. That said, there may of course be occasions on which it may be possible to offer unbundled elements, for example to provide additional send-out.

In relation to providing interruptible services, in practice this may well prove problematic and unattractive as those with cargoes to deliver will likely seek a firm product in order to (in what is currently an illiquid market) be able to deliver the planned cargo volume and avoid impacts on ship scheduling that would likely arise from interruption.

Different LNG terminals will by virtue of their differing configurations be able to offer differing ratios of berthing: temporary storage: send out, and such differences will impact the ways in which standard services might be bundled in practice. These differences add further practical complexities should one seek to introduce standardisation of access terms. However, EFET consider that harmonisation of LNG terminal access rules to the greatest extent practicably should be considered.

GGPLNG should avoid being overly prescriptive in respect of how bundled and unbundled services should be offered so that no barriers are created for innovation and product differentiation in the market.

VII. The GGPLNG recommend that standard bundled services are defined after market consultation, especially concerning the flexibility included. In line with that, they emphasise the importance of taking into account the LNG facility's technical constraints. Do you agree with this approach? Would a more prescriptive approach regarding the parameters for the definition of standard bundled services and their flexibility be feasible and/or more appropriate?

The market should be free to deliver innovative products to meet demand rather than be subject to the imposition of prescriptive solutions. Cross subsidies should be avoided and the

flexibility included in services has to reflect the costs incurred. This will help facilitate the free trade and flow of LNG.

VIII. According to the proposed GGPLNG, the LSO shall offer on the primary market long-term and short-term services at LNG facilities. Do you consider, from a TPA perspective, that any further guidance can/should be given with regard to a balance between long and short term services?

To facilitate the entrance of new shippers a determinate level of short term services (one/two years) should be offered.

IX. Requests have been made during the July pre-consultation with stakeholders for specific standardised regasification contracts (e.g. front month contract) that aim to facilitate the trading of the regasified LNG on natural gas markets. What type of standardised services could be offered by the LSOs? To what extent would these services be compatible with technical constraints (e.g. available storage capacity), the efficient operation of each terminal and innovation in the offering of terminal services? How prescriptive should the GGPLNG be about standardised contracts?

We believe that the guidelines should not be prescriptive regarding standard contracts. The market should be left to respond to develop appropriate products and any appropriate levels of standardisation would evolve as a consequence. Excessive standardisation risks imposing solutions which fail to allow for the differences between terminals, which are perhaps only fully understood when the actual detailed issues are considered on a case by case basis.

With regard to the suggestion of a standard front month regasification contract we believe that such a service worthy of consideration. That said, the market should be the mechanism which discovers whether such an offering would be attractive, rather than a specific arrangement being imposed by GGPLNG.

X. Considering that harmonised network codes should take into account specificities of each terminal, which issues could be common and under which conditions?

Basic services, processes and procedures, and information transparency could be harmonized (e.g. definition of storage space, regasification capacity, firm and interruptible services, tradability of capacity and gas in store, nominations). Ancillary services which may be necessary to deal with local operational issues will depend on individual circumstances at each terminal, which must be recognized by the guidelines, and not prevented by them.

EFET believes it is important to understand the specific characteristics of each LNG import facility and the impact on it of proposed harmonisation measures before harmonisation is implemented. It is better to set high level common principles rather than imposing prescriptive harmonised arrangements in a network code which may actually inhibit effective and non-discriminatory access to LNG terminals. It may be possible, as with the guidelines for gas storage, for certain requirements to be specified in the GGPLNG for implementation at all regulated TPA terminals

XI. Electronic communication tools seem to be the most suitable means for the LSOs to exchange information with the terminal users. What type of platform could be needed? What services should be available on it (e.g. secondary market, nominations, etc.)? Should a simplified system based, for example, on fax transmission be envisaged in certain cases and, if so, when?

Secondary to securing the release of the information itself, it would be helpful if ERGEG set out in the GGPLNG that all such data is to be provided by LSOs in a clear and consistent format on a standardised and readily accessible platform. It would not be appropriate for the

GGPLNG to be more prescriptive about the precise form of arrangements that should put in place for effective electronic communication.

We believe electronic communication tools and IT systems should be addressed after the detailed information requirements have been established. To try to design such tools too early would incur unnecessary additional costs if the requirements change as the issues are better understood. Furthermore it is also important to ensure that any such IT systems are cost effective and proportionate. Therefore EFET supports ERGEG's suggestion that a simplified system perhaps based on fax transmissions might be appropriate in some circumstances, as an initial measure whilst a cost benefit analysis is being undertaken with respect to more complex tools.

Whilst recognising that consideration needs to be given to development of appropriate systems and software it is important to be clear that there may for example be significant differences between different LNG facilities, and expectations therefore need to be realistic regarding what level of standardisation can be achieved initially and within what timeframe this can take place.

XII. Even though several platforms already exist and software could be copied to a certain extent, the development of electronic communication tools represents a certain cost. Do you think the cost/benefit ratio would be acceptable?

It is important that whatever the solution, costs should not be unreasonable or constitute a barrier to entry. As explained above the GGPLNG should not be overly prescriptive regarding the IT systems that should be put in place, as this would be likely to lead to additional and unnecessary costs being incurred

XIII. The GGPLNG consider the cooperation between LSOs when putting in place compatible scheduling procedures in order to facilitate capacity trading and interoperability between European terminals. Do you think that such a harmonisation of scheduling procedures is desirable? Would it be necessary and proportionate to introduce some minimum harmonisation of these procedures within the GGPLNG to facilitate capacity trading and interoperability between European terminals? What requirements can be envisaged?

EFET is supportive of implementing compatible scheduling procedures in order to facilitate trading where practicable and appropriate as the main goal of the GGPLNG is to facilitate trading across EU as " *...LNG contribute to an increasingly competitive and secure European gas market"* As EFET indicate in its answer to question 2, although it would generally support arrangements that would facilitate trading, there may be a limit to the level of compatibility that can be achieved in scheduling procedures due to the different technical characteristics of individual LNG terminals.

Capacity allocation and congestion management

XIV. The GGPLNG propose some concrete solutions in order to implement the very general principles laid down in Regulation 1775/2005 (Articles 5.3. and 5.4). Comments on these issues would be most welcome:
- Non discriminatory allocation rules for primary and secondary capacity are necessary to promote competition. The GGPLNG propose market-based solutions and other alternative mechanism as pro-rata or first-come-first-serve procedures. Should a reference to specific subscription procedures be included? Is there any other procedure that the GGPLNG should take into account?
- Regarding congestion management, is the development of a secondary capacity market sufficient to optimise the utilisation of the terminal capacity?;
and
- Should the GGPLNG be more or less prescriptive regarding procedures to manage congestion in the terminals?

With respect to this question XIV and questions XV, XVII and XVIII it seems counterproductive and confusing to refer to three separate concepts of "congestion management," "reallocation" and "release." Are they not really interrelated? What is really needed is a (single) mechanism whereby holders of primary capacity are incentiviseded to either use that capacity or release it to a secondary market. This could be effected by a combination of a robust secondary market that is facilitated—and only facilitated—by the LSO and a properly structured UIOGPFI regime. It would be inappropriate for an LSO to be the party that determines when capacity is not "used" or "underutilized," but there should be an objective tariff mechanism in place as a backstop to ensure that un-utilized capacity is returned to the market.

In EFET's view capacity "use" must be defined to include use of the storage component and send out as well as berthing.

Paragraph 39 refers to systematic under-utilisation of capacity. This term needs to be clearly understood if it is to be adopted, as it would appear to be relevant to how regulatory authorities might monitor utilisation and if necessary take remedial action.

Use-it-or-lose-it (UIOLI) provisions attempt to address two issues: Firstly curbing anti competitive behaviour by preventing capacity hoarding; and secondly improving market efficiency by seeking to ensure that capacity use is maximised by releasing capacity from those who do not use it and making it available to those who will. Unfortunately, UIOLI provisions may not, in some cases, solve either of these issues.

Improving the flexibility of secondary trading of capacity could be also effective as a measure to maximise capacity utilisation in addition to UIOLI arrangements.

XV. Reference is made to capacity that the holder is no longer able to use. An obvious example is the case of (unbundled) regasification capacity owned by a shipper who has no more gas in storage. What are the other cases where capacity could be categorised as no longer usable? Who must decide when a capacity holder is considered as no longer able to use the capacity?

As noted in question XIV, the issues covered in that question and questions XV, XVIII and XIX appear interrelated.

We believe there is danger of seeking to establish a single detailed definition of unused capacity. Different stakeholders may use different elements of capacity in different ways. Guidelines should we believe stick to principles which include the following, rather than advocate prescriptive detail which might restrict flexibility

1. If terminal capacity is not to be used by the holder it should be offered for sale on the secondary market for others to use. There should be an obligation to do this as part of any anti hoarding measures
2. Unused terminal capacity should be given up in a reasonable time timeframe so that others can in practice use it.

Paragraph 37 suggests that when the initial capacity holder is considered no more able to use it, the LSO shall offer corresponding capacity to the market. It is unclear what entity it is envisaged will make such a decision but it is implied that it will be a party other than the initial capacity holder themselves. This would be totally impractical and problematic. Only the initial user themselves can judge when they are unable to use capacity, as only they know their commercial position and options. In any case they will be incentivised (by the costs they have paid for capacity), to seek to sell any unused capacity on the secondary market in an attempt to recover capacity purchase costs already incurred, not to mention the fact that anti hoarding measures will be in place as further protection for the market. The LSO should facilitate the release of the capacity, but no more, and Paragraph 37 should reflect this.

XVI. Regarding the allocation of capacity, the GGPLNG stipulate that the LSO might allocate the standard bundled LNG services with a priority upon not bundled services in order to maximise the use of the LNG facility. In your view, under what circumstances would it be appropriate to give such a priority to bundled services?

It is our view that bundles of capacity should be structured to maximize sales of capacity, not use of the terminal, in order to underwrite the investment. This might be achieved by splitting all capacity into standard bundles, or by accepting bids for different combinations including unbundled elements. The interruptible services, secondary market and UIOLI should then seek to recycle unutilized capacity to parties who may wish to use it.

Priority should be given to bundled services in order to prevent circumstances where, for example, the sale of unbundled elements could theoretically render stranded elements of other bundled services which need for their effective utilisation to be combined with other unbundled product e.g. berthing capacity would be unusable without temporary storage or send- out.

XVII. The GGPLNG tries to assure the optimum utilisation of the terminal and to avoid capacity hoarding by promoting capacity reallocations when appropriate. How can the balance be struck between the promotion of the secondary market of capacity and the protection of primary capacity holder's interests?

Primary holders will welcome an efficiently functioning secondary market to enable them to attempt to recover value for any unused slots i.e. the incentive exists for both primary and secondary users to develop such a market. That said it is essential that the primary capacity holders' rights are not compromised by imposition of punitive secondary obligations (for example see comments below on the treatment of unused capacity) as this could undermine investment in new terminals. It is of course in the interests of secondary users that an equitable solution is implemented as without future primary investment there would be no additional future secondary capacity arising at any new facilities built.

XVIII. The GGPLNG distinguish between punctually unused capacity and systematically underutilised capacity:
- The definition of unused capacity refers to a deadline by which the capacity holder must nominate its use. This concept is defined in Regulation 1775/2005, art. 2.4. Do market players agree with the definition of unused capacity? Is a more or less detailed definition needed? What conditions/circumstances should be taken into account when assessing whether capacity is effectively used or not?
- Is there a need to distinguish between punctually unused capacity and systematically underutilised capacity as states the current draft of the GGPLNG? Is the proposed split between reallocation of unused capacity and release of underutilised capacity a good approach?
- Is it satisfactory to empower the NRA to evaluate if there has been systematic underutilisation of capacity or should the concept of 'systematic underutilisation' be described more accurately in the GGPLNG, by specifying the criteria to be used?

As noted in question XIV, the issues covered in that question and questions XV, XVIII and XIX aappear interrelated.

Definition of unused capacity for LNG importation facilities needs to be carefully constructed taking into account the different circumstances prevailing at LNG importation facilities to ensure a workable solution.

It is important that capacity is regarded as unused when a primary user is clearly unable to utilise it, rather than for example it being simply deemed unused if utilisation is not confirmed by say an arbitrary deadline, which suppliers with only further distant supply sources may

deem as a practicable cut-off time even though the primary capacity holder may well have real supply options beyond this cut off time arising from the closer proximity of its supply sources

What is important is that the definition includes sufficient flexibility to accommodate valid practical considerations whilst still ensuring a definition of 'unused capacity' which adequately supports the development of a secondary market and anti hoarding measures. That said it is important to deliver as efficient and practicable secondary market as possible

**XIX.** Is it necessary to impose detailed congestion management mechanisms as proposed in these GGPLNG, or should the GGPLNG content themselves a set of general principles? Are the solutions proposed in the GGPLNG adaptable to the varying, present and future, situations?

As noted in question XIV, the issues covered in that question and questions XV, XVIII and XIX aappear interrelated.

Given that guidelines are voluntary, there would seem little point in developing detailed solutions rather than appropriate principles. Specifying general principles would also allow for the recognition that arrangements may need to differ depending on the technical characteristics of individual LNG terminals.

**XX.** Setting the right deadline or notice period is considered as a key factor for the congestion management procedures. Comments on this issue would be welcome.
- Should the GGPLNG include more or less detailed/prescriptive provisions on deadline / notice periods regarding unused capacity?
- What circumstances should be taken into account by the LSO/NRA when determining / approving notice periods. Is there a single specific deadline/notice period appropriate for all solutions? If so, what could it be?
- Is the NRA the most appropriate party to define the deadline or notice period? Otherwise, who should be responsible for setting the deadline/notice periods?

Following on from EFET's comments earlier in this note regarding congestion management EFET comments as follows.

Paragraph 38a refers to notice periods needing to be long enough to allow another LNG shipper to organise a shipment. It is important that this period is not set so far in advance so as to undermine primary capacity value. It must be recognised that different shippers will have different lead times to arrange deliveries.

One could envisage a scenario where a primary capacity holder with options to make a cargo delivery to a regas facility within a week of a berthing slot, might be forced to surrender capacity to a third party who might claim to need a lead time of two weeks to arrange a cargo. This would clearly undermine primary value, and perhaps even reduce numbers of cargoes flowing by 'locking out' at an inefficiently early date the primary capacity holder who may well have a greater probability of actually using the slot.

At first glance, it appears attractive to take capacity from those who do not use it and give it to those who will. Nevertheless, this is in practise not possible to implement and does not work effectively. Once capacity has been lost as a result of UIOLI rules, it must be reallocated to other users on a non discriminatory basis using market mechanisms if efficiency gains are to be made. Efficiency gains are only achieved if more capacity ends up being used.

Paragraph 38a also refers to the fact that notice period for release of capacity will be determined by the NRA based on opinions of market participants. This sounds rather subjective and problematic.

Overall a balance needs to be struck to both protect the interests of secondary capacity users and those having invested in primary capacity at a terminal.

That said, for the avoidance of doubt EFET fully supports the implementation of appropriate and workable congestion management arrangements subject to general common principles at all LNG importation facilities.

XXI. The GGPLNG establish the principles to release underutilised capacity, setting some detailed circumstances where this may happen and assigning responsibilities to NRAs. Should the GGPLNG be more or less prescriptive on this issue? Do the circumstances set out in the GGPLNG cover all present and future circumstances where underutilised capacity should be released? Would a less constraint mechanism be preferable?

Whilst GGPLNG can legitimately set out some detailed circumstances under which unused capacity might be released, it is important that such a list is not seen as exhaustive and acknowledges that as the market evolves circumstances may change. The key is to provide sufficient flexibility to enable regulatory arrangements to remain effective

Transparency requirements

XXII. The GGPLNG try to summarise the most important operational and commercial information to be published by the LSOs. What other types of information should the LSOs provide to the market to improve the transparency and the efficiency of the market?

EFET is supportive of measures which seek to deliver additional information transparency.

Our primary concern is that the appropriate information is released in the first place, and then to also make sure the information provision is consistent and user friendly. This information should be provided to users free of charge and the costs of provision be funded through the tariffs paid for using the terminal services. Costs to provide information will in general be quite low compared to all other costs, but information provision will provide a significant benefit in terms of additional market transparency and consequent opportunities for efficiency improvements.

Other information requirements, beyond that specified in the GGPLNG will evolve over time as the market for LNG continues to develop. The important thing is for mechanisms to be in place to enable consideration on a case by case basis of requests for additional information release so that LSOs are able to respond to market requirements (subject to consideration of the cost-benefit trade-off and other relevant factors).

XXIII. In your view, are there other points regarding transparency that should be addressed in the GGPLNG?

Information transparency should not expose commercial positions of individual shippers and data should be published in an aggregated form where this risk arises in order to provide appropriate protection.

Trading of capacity rights

XXIV. Opinions have been expressed that in some markets, organised trading of capacity rights might not be necessary, or that the benefits this trading provide to LNG terminal users could be reached by other means. Is an organised secondary capacity market in the terminal useless, useful or necessary? Should the GGPLNG recommend the creation of a secondary market for capacity or should this be left to each LSO or NRA's appraisal?

The GGPLNG should recognize that there are a number of effective means of providing access to LNG terminals. Secondary trading is one such measure which should be encouraged.

The creation of a secondary market should happen in response to market demand; imposing a market will not determine that it is used, and if it is not subsequently then it will have been imposed inefficiently. However it is crucial that LSOs do not create barriers to the development of secondary markets by not putting in place the necessary arrangements to facilitate the market once there is a recognised need.

XXV. Considering a need for a secondary capacity market in the terminal, what features would be needed for an efficient functioning of this market? Comments on this issue would be welcome, i.e.:
- How crucial is contracts' standardisation for the development of secondary market?
- Should contracted capacity that has not been nominated be offered on the secondary market by the LSO if the capacity owner does not do it?;
- What is your interest in the offer/demand of not bundled capacities on the secondary market (e.g., berthing capacity, storage capacity etc.)? Have you encountered obstacles regarding this that would justify developing more specific rules about the trading of not bundled LNG services in the GGPLNG?

Standardisation of contractual arrangements is hugely beneficial, but should emerge from market evolution. Offering of non-nominated capacity may be unnecessary if alternative arrangements are effective, but could be imposed as a resort if arrangements are ineffective.

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