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ERGEG public consultation
on Guidelines for Good third
party access Practice for
Storage System Operators
(GGPSSO)

ERGEG
Mrs. Nathalie Burton
Rue Le Titien 28
B-1000 – Brussels

Dear Mrs. Burton,

We welcome the opportunity to respond to the public consultation on Guidelines for Good third party access Practice for Storage System Operators (GGPSSO), on behalf of our respective affiliates. While we fully support ERGEG's objectives to ensure non-discriminatory and transparent access to storage facilities, we are very concerned that the guidelines appear to prepare the ground for further regulation and ultimately over-regulation of the storage market.

I am sure you are aware that existing gas production in Europe is declining and Europe's import dependency will grow significantly in the future; we estimate from 40% today to about 70% by 2030. At the same time the worldwide demand for gas is increasing significantly. To maintain the competitiveness of Europe in this global gas market, and to maintain security and diversity of supply, policy makers must establish and maintain a regulatory framework which creates a positive investment climate to attract these much needed new imports. We believe that as Europe's gas production areas mature, the industry and regulators must work together to ensure that three market frameworks fundamentals put in place:

- A beneficial investment environment
- Light-handed stable and predictable regulation
- An open and competitive marketplace that guarantees the freedom to negotiate

To meet the growing demand for imports in Europe, gas supplies will need to travel longer distances, either through pipelines or as LNG, from more distant resources in the exporting

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regions. In order to maintain competitive import costs, import volumes will likely be delivered to the markets in Europe at a high load factor. Given this increasing supply of gas at a high load factor, the market demand for lower load factor gas will inevitably require significant new investment in storage facilities.

To attract these necessary new storage investments to Europe an attractive market environment must be created and maintained. In this regard we support the European Commission's and member states regulators' efforts to liberalize the European gas market. But we caution that this is a delicate balance in which over regulation to control the liberalized market can undermine the market development itself. As such we believe that it is entirely inappropriate for national regulatory authorities to be granted additional powers of review under the proposed voluntary GGPSSO.

In the past the guidelines for good practice that were openly discussed and developed by the Madrid-Forum provided a useful function as a reference for contract negotiations for access to infrastructure. To the extent that guidelines keep their function as a reference and benchmark for good practice, and do not become a step in a process leading to over-regulation, we support their development and their open discussion in the Madrid-Forum. While we are generally supportive of the GGPSSOs as voluntary guidelines, we continue to have concerns with a number of areas in the current draft and have summarized our key concerns below:-

- In our view the guidelines should clearly define the storage facilities that they refer to. The scope of the guidelines should not go beyond that of the Gas Directive II. Storage facilities that are excluded by the Gas Directive II from third party access, e.g. facilities used for production operations according to Art. 2 (9) GD II, should be excluded from all requirements including the information requirements of the GGPSSOs. In this context we also do not believe that storages or storage capacities that are currently excluded by law from third party access shall be named as subject for an approval for exemptions by the national regulatory authorities. Additionally, storage facilities that are connected or attached to LNG import facilities should be excluded from the GGPSSOs again consistent with the Gas Directive II.
- Given the essential requirement, for a open and freely functioning commercial storage market, that market participants are able to offer and to negotiate storage contracts that meet the market and user's requirements while taking into account the physical characteristics of each reservoir, we do not support prescribing commercial conditions, e.g. via a storage code. In this context the prescription of ratios of long term and short term contracts and the prescription of ratios of bundled and unbundled services does not meet the market/users nor facility owners/ investors needs. It will unnecessarily limit access to storage facilities and reduce the effectiveness and attractiveness of investment opportunities.
- Generally, we are supportive of the principle of use-it-or-loose-it (UIOLI). However, with regard to storage facilities, care must be taken in determining the definition of "use". There is a broad range of contractual commitments that require a user to book capacity which is only used in certain limited circumstances, e.g. for peak day supply obligations (one peak day in 20 winters) or to back-up firm supply obligations. In these

circumstances UIOLI provisions must not operate so as to undermine the essential purpose of some storage contracts which have by design an objective of non-use.

- Necessary information to ensure that users access on a non-discriminative basis should be published by the storage operator. Any information provision beyond this should be carefully considered. In the event that it is appropriate to release historical data to the market it should only be released in an aggregated form. Information provision that allows the identification of individual market participants or facilities or results in the release of commercially sensitive information to the market may damage the commercial rights of storage owners or users and distort the market.

We hope that these comments prove useful in the development of the GGPSSO and we would very much welcome the opportunity to have the opportunity to discuss our comments and concerns in more detail directly with you. If you have any questions please do not hesitate to contact myself or Gabriele Haas (+44 20 7412 2911)

Yours sincerely,



Peter P. Clarke

cc. Mrs. Una Shortall