

10 November 2004

**EURELECTRIC Comments on**  
**EREGG Position Paper on TPA to Storage**  
**and**  
**EREGG Guidelines of Good TPA Practice for Storage System Operators**  
**(GGPSSO) - Version 2004-10-06**

EURELECTRIC welcomes the possibility to issue comments with regard to the EREGG Position Paper on TPA to Storage and the proposal for Guidelines of Good TPA Practice for Storage System Operators (GGPSSO), published for public consultation on 6 October 2004.

Overall, the EREGG proposal has improved considerably since the July 2004 Madrid Forum and EURELECTRIC agrees in general with the proposed guidelines. EURELECTRIC welcomes the present text of the GGPSSO and the EREGG Position Paper and expects that both papers will be agreed on at the next Madrid Forum.

However, we would like to draw the attention of EREGG and all stakeholders to the following EURELECTRIC comments.

## **I. EREGG Position Paper**

### *Chapter 1) The choice between negotiated and regulated access to storage*

EURELECTRIC supports the position of EREGG to apply the guidelines to both negotiated and regulated access. Most rules must be the same, because the same end-result should be reached in both cases: fair, transparent and non-discriminatory access to storage. The principles for adopting either regulated or negotiated TPA should actually be contained in an official document to be agreed in the next Madrid Forum.

Regulated access should be the normal regime for the basic services. Negotiated access should only be employed if real competition in gas storage exists. The regulatory authorities should provide evidence that **real competition exists** before accepting negotiated storage access, considering the different functional characteristics of the sites, the existence of capacity in excess of the minimum value to meet the national demand for basic storage services, the absence of restraints (including transportation bottlenecks and costs) in accessing the different sites, and the comparison of prices for the different sites and their trends.

This competition analysis should in most cases be limited to **storage-to-storage competition**, especially in the case of seasonal storage, because other flexibility instruments, such as production swings, line pack, flexible import flow etc., which can in some cases be used for daily adjustment, are not full substitutes for storage in all cases. Member States should only approve negotiated access to storage facilities if there is a really competitive storage market.

In addition, paragraph 3 on page 2 seems to suggest that there could be situations where an operator might be able to argue that it will not have to comply with the guidelines. In our view, the GGPSSO have to be applied in all cases, independently of whether access to storage is regulated or negotiated. It cannot be the case that a storage operator decides itself whether it has to comply with the guidelines or not.

#### *Chapter 2) Public Service Obligations (PSOs)*

EURELECTRIC supports the ERGEG position (page 3, paragraph 3), that parties who are responsible for PSOs have to demonstrate to their national regulatory authority that the capacities booked for these reasons are **only** linked with and booked for the relevant PSOs.

#### *Chapter 3: Non discrimination and confidentiality of information*

EURELECTRIC fully supports the ERGEG view on confidentiality of information. This issue is an important concern as the Gas Directive 2003/55/EC only mandates accounts unbundling of storage activities. Our main concern is that especially in cases where the SSO belongs to the commercial or supplier part of an integrated gas company, a specific user of storage capacity may have to provide commercially sensitive information to the SSO (whose supply branch is a potential competitor), such as the volume of customers to be supplied, or even a list of customers if congestion management procedures apply in cases of storage scarcity. This cannot be acceptable in a competitive gas market, unless stringent rules are adopted, guaranteeing that information is kept confidential within the storage branch of the company.

#### *Chapter 7: Tariff structures and derivation*

EURELECTRIC supports that regulated tariffs should reflect efficiently incurred costs, as stated in the first paragraph of Chapter 7. In addition, it is important to stress again that negotiated tariffs have to be non-discriminatory: the same fees have to be applied for the same service to every storage user.

## **II. Proposed GGPSSO**

Concerning the GGPSSO, EURELECTRIC would like to comment as follows:

- EURELECTRIC welcomes the inclusion of confidential treatment of information already in **Article 1** of the GGPSSO, as this is a central responsibility of every storage operator.
- The principle set out in **Article 2.1.d.** can in general be seen positive. However, it has to be stressed that the implementation of the principle must not be discriminatory to any (especially smaller) storage users. It is important that SSOs publish standard formats for information exchange, to be used via normal electronic communication networks.
- In **Article 3.1** it should be established that all, or a portion of, storage capacity of an LNG terminal, necessary for the operation of that LNG terminal, should be tied to the overall TPA rules of that terminal.
- As stated in our comments to the ERGEG position paper, we support the principle included in **Article 3.2.** that parties have to prove that storage capacities needed for PSOs and security and supply are only booked and used for these obligations.

- The yearly firm services should be classified in either long or short term in **Article 3.3 c**. It would be preferred to classify them under long term.
- After the statement of **Article 3.6** “With the same constraints, injection and withdrawal of gas should, in principle, be possible at any time” should be added “without any unjustified additional cost, in compliance with Article 7”.
- It should be clarified that assignment of storage capacity is related to the need of the supplied customers. When physical congestion is present, the portion of multi-annual long term contracts cited in **Article 4.2** shall not be related only to contracts signed before the entry in force of the Directive 2003/55/EC, but also to long term contracts signed later (including yearly contracts). Moreover, storage capacity should in general be transferred in the case of customer switch.
- There should be an explicit reference to use-it-or-lose-it rules in **Article 4.3**.
- We fully support the importance given to confidentiality requirements in the new draft of the GGPSSO, in **Article 5**, and welcome the new text on this issue. As already stressed above, confidentiality of information is a central issue of concern for EURELECTRIC, especially in cases where the storage activities are undertaken by the supply branch of an (integrated) gas company. Therefore, the proper implementation of Chinese walls must be ensured by the companies and monitored by the competent national regulatory authorities. A code of conduct for staff and a compliance programme, supervised by a compliance officer, are essential requirements which must be implemented regardless of the size of the company. The new proposal seems to take our earlier concerns well into account.
- In cases where information of a specific storage user’s account would be at risk, and the SSO considers that it cannot publish information on the basis of confidentiality, we support the principle in **Article 6.2**. that authorisation for non-publication must be sought from the regulator. In case the storage operator does not want to publish specific data (for any reason), the SSO must obtain an authorisation as mentioned in **Article 6.3**.
- We welcome the rules for the publication of operational information set out in **Article 6.5**. However, it is not clear whether all necessary information is covered by this article. It seems that it may not fully cover the information on available injection and withdrawal capacities, whereas this information is important for the efficient use of storage by power generators. As gas-fired plant are often modulating plants, the running of which is in many cases only confirmed on the day, it is important to know whether there is enough capacity available to either inject gas into a storage facility until it is needed for the generation of electricity, or to withdraw gas at the time needed. “Aggregated inflows and outflows and historical utilization rates” are not necessarily sufficient for these storage users. Therefore, the publication of “available injection and withdrawal capacity” should be added to the list in Article 6.5.
- The definition of “core standard services” mentioned in **Article 6.4** should be added in the Annex.
- It should be stressed again that regulated tariffs should reflect efficiently incurred costs (as stated in **Article 7.1.a.**) and that negotiated tariffs have to be non-discriminatory (as set out in **Article 7.2.a.**).
- The guidelines should allow trading of gas in storage. The buyer of gas which is stored must be able to withdraw the gas without any problems. Therefore, it has to be ensured that the buyer has access to the necessary withdrawal capacities at the time the gas is needed. Trading of gas in storage could be handled in **Article 9**. Adding this point would allow the storage users to manage the constraint of inventory at the start and end of the storage service contract and prevents the storage user being forced to sell

to the storage operator. The SSO would then be required to register the trade between users.

- In the definition of “Interruptible storage capacity” in **Point 10 of the Annex**, “transmission system operator” should either be replaced by “storage system operator” or the latter should be added.

**EURELECTRIC strongly recommends that the GGPSSO would be agreed and approved by all parties at the 3 December 2004 Madrid Forum session.**