



Per email: gastransparency@erggeg.org

Mrs. Fay Geitona
CEER Secretary General
28 rue le Titien
1000 Bruxelles
Belgium

Durlacher Allee 93
D-76131 Karlsruhe
Germany
Phone +49 721 63-06
Fax +49 721 63-12725
www.enbw.com

Registered Office: Karlsruhe
Amtsgericht Mannheim
HRB 107956
Tax no. 35001/01075

| | |
|------------|--|
| Name | Felicitas Stuffer |
| Department | Regulatory Compliance (HOL ONC) |
| Phone | +49 721 63-24235 |
| Fax | +49 721 63-13816 |
| Email | f.stuffer@enbw.com |

EREGG Public Consultation on existing transparency requirements for natural gas (# E10-GWG-68-03) 28 November 2010

Dear Ladies and Gentlemen, dear Mrs. Geitona,

we highly welcome ERGEG` s approach to take a closer look at possible areas of activity in terms of transparency along the gas value chain. We believe that a level of transparency both in the TSO sector and the market is crucial to promote a level playing-field in the market by reducing information asymmetry and ensuring a more efficient functioning of wholesale market competition. We understand an appropriate level of transparency as one that allows market participants to compete against each other on the basis of fundamental data being available to all of the market without disclosing any individual market behaviour.

The reliability of price formation in competitive gas markets can only be further enhanced by an improved framework in transparency regarding data related to system operations. Consumers will naturally benefit from a better functioning of gas markets through more choice and fair market prices. At the moment we note that the soon-to-be implemented binding transparency requirements are sometimes far from being respected in some countries. Thus we have major concerns regarding the soon-to-be legally binding future requirements. In terms of TSO transparency all responsible parties must ensure that the proposed binding guidelines for gas TSOs are implemented by March 3rd 2011.

However, reliability of price formation also requires a level playing-field in terms of fundamental market information. To prevent any potential insider trading problem, unplanned outages and planned maintenance information in the upstream sector must be known to all market participants at the same time. Otherwise information asymmetry is likely to distort the creation of fair market prices. ERGEG should there-

fore focus on more fundamental transparency information in the upstream sector. Why is that? The Third Energy Package already provides for requirements for TSOs, storage and LNG facilities with some gaps associated with. The only issue not taken care of formally is the one of transparency requirements in gas production; which we think needs further attention.

Further, we answer your questions as follows:

Do the existing legally binding and soon-to-be legally binding transparency requirements for transmission, LNG and storage satisfy your needs as a market participant? In case your answer is no, please specify what is missing in your view and why.

Generally speaking the soon-to-be legally binding Guidelines on TSO transparency requirements should broadly satisfy requirements of market participants but must be implemented promptly and consistently by March 2011 and to the same extent in all EU gas markets.

Whilst good progress on data transparency requirements has been made in a number of Member States there still remains significant work to do to ensure consistent TSO real-time provision of information at all major entry/exit points across the EU, and efforts should be focused on the implementation of these requirements followed by an assessment of what, if any, gaps remain post implementation across the EU. While disclosure regimes in the areas of both planned maintenance and unplanned outages for storage and LNG facilities exist or are under discussion we propose likewise steps for gas production (see below) as this part of the value chain is neither covered within the Third Package requirements nor in the GGPs.

Are you satisfied with the current level of transparency provided for by system operators? In case your answer is no, please specify whether this is the case due to the lack of transparency requirements or the quality of publication.

Current levels of TSO transparency are still inconsistent across different systems. We see the clear need for the new binding TSO transparency requirements to rectify this. The important task to be tackled by TSOs is the consistent implementation of the new requirements by March 2011. In this respect it is also crucial that ENTSOG takes the lead in helping TSOs to be in a position to meet their legally binding requirements by March 2011. It is absolutely essential that the set of information and publication across TSOs are the same in order to ensure comparability for market participants.

We acknowledge that ENTSOG's "Gas Roads" transparency platform is a useful tool for proving static data elements however such a platform can only perform well if the input data is consistent and therefore a significant review on input has to be done by TSOs in the wake of the new Guideline coming into force.

Do the existing voluntary GGP for LNG System Operators and GGP for Third Party Access for Storage System Operators satisfy your needs as a market participant?

When reinforced with the mandatory data requirements on LNG and storage facilities in the Regulation, the requirements of the existing GGPs are broadly satisfactory.

Is there an area along the gas value chain (production, transmission, LNG, storage, distribution, wholesale market) where in your view additional transparency requirements are needed? Please specify what you miss in your answer.

We share the vision of a pan-European market in which gas can be freely moved and traded between markets on a market price-basis both in the forward and spot markets up to the liquid within-day trading. We see transparency requirements are in this respect as facilitators. This implies at the same time that the need for TSO and fundamental market information may change as markets in Europe grow more and more mature. Requirements suitable and needed today may look differently tomorrow. We therefore call upon ERGEG and the EU Commission to apply a regular assessment of the level of transparency needed for a market and hence liquidity and fair competition to flourish. The explicit need for transparency in the upstream sector is laid out in the next answer.

Do you think that further transparency is required for the production (upstream) sector? If your answer is yes, please specify what is missing in your view, and what specific additional transparency requirements you would want to see? If your answer is no, please explain why.

Comparing the practices of market transparency in developed markets in power and gas we see significant lacks in terms of market transparency in the upstream gas sector. This unlevel playing-field can be harmful for a positive market development in gas (and at the end for power as well).

Looking at the very basics of market transparency in the upstream gas business as regards to planned maintenance of production assets – let alone unplanned outages – there is currently no reliable information available provided by the relevant asset owners. Montel investigated in April 2010 on the issue of transparency on the gas production sector and concluded “gas producers block transparency”¹. Montel contacted some of the largest oil and gas producers on the Norwegian shelf to find out how they treat information about planned maintenance and unplanned outages towards the market and received different responses (the real names are mentioned in the press article but an individual company position should not be reflected in this context):

“[Producer A] did not return calls.”

Producer B: “Considered it commercially sensitive. There were no plans to change this practice.”

¹ “Gas producers block transparency”, Montel website, April 27th, 2010.

Producer C: "Refused to disclose any details about planned shutdowns." "We don't make these types of details public."

Producer D "agreed to name the fields it plans to shut but did not give exact dates for the maintenance period."

In power we see in some markets quite the contrary behaviour of market parties. For example, German generation companies set up a voluntary industry initiative for generation data transparency. This project was developed in close cooperation with the Bundesnetzagentur. The EEX Transparency Platform² offers aggregated information on generation outputs and availabilities.

Non-publication of generation data (be it planned maintenance, outages or aggregated flows) in gas production on the one side and voluntary publication of power generation data on one platform with a coverage of more than 85% of the relevant generation units on the other side do not fit together in order to create a single European energy market and distort fair cross-commodity trading. The current situation therefore bears the risk that the information asymmetry creates discriminatory market price formations.

Let us sketch up a real-life scenario to make potential negative aspects more comprehensible: a gas production asset owner knows that his production site will be offline for a certain amount of time (due to maintenance). The rest of the market is currently not aware of this information. The gas production asset owner will then start to cover the missing volumes in the market based on the information which is not publicly available yet. He might even hedge more than he needs to cover the outage to profit from higher prices after the information becomes available to the market which may be even more relevant considering that this market participant does not only trade on the gas market but also trades in the power sector (spreads, gas-to-power). The information asymmetry therefore gives him a competitive advantage not only in the gas but also in the power market.

The same scenario applies with an even stronger impact by delayed publication of unplanned outages. Although the relevant volumes will eventually become visible to the market once the gas hits the regulated networks, this may be too late for the other market participants.

In order to prevent discriminatory asymmetric market information in gas we see the same need for action by ERGEG and the EU Commission as in the power market to set up EU-wide harmonised and binding rules. Certainly, any voluntary measures, as it happened in the power sector, are also welcome. Generally, we would like to see a system of Urgent Market Messages (UMM) in place where information that could have effects on market outcomes, such as unplanned outages on infrastructures (interconnections, storage fields, production fields and LNG terminals), are released.

² <http://www.transparency.eex.com/en>; see also EEX's press release: "Successful first Year of the EEX Transparency Platform – Platform firmly established on the market – More transparency in market pricing" on http://www.eex.com/en/document/84278/20101125_Ein_Jahr_Transparenzplattform.pdf

EnBW hopes that its comments contribute to ERGEG's public consultation on "Existing transparency requirements for natural gas".

We remain at your disposal should you have any further enquiries.

Kind regards.

Yours sincerely

EnBW Energie Baden-Württemberg AG

i. A. Felicitas Stuffer