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European Regulators' Group for Electricity and Gas  
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09 October 2010

Via e-mail: [fay.geitona@ceer.eu](mailto:fay.geitona@ceer.eu)

Dear Fay

**E10-GST-09-06: Assessment of Capacity Allocation Mechanisms and Congestion Management Procedures for effective Access to Storage and Proposals for the Amendment of the GGPSSO – An ERGEG Public Consultation Paper.**

Thank you for the opportunity to respond to this consultation. The following comments are offered on behalf of Shell Energy Europe Ltd. Headquartered in London, Shell Energy Europe Limited coordinates Shell's European gas, power and CO2 marketing and trading business across 14 offices around Europe.

Please note: this response is not confidential and may be placed on your website.

The GGPSSO (the 'Guidelines') are a valuable set of voluntary measures that help provide a template for the development of competition in storage markets. In particular the Guidelines represent a framework within which regulators can address the vital issues of non-discriminatory capacity allocation mechanisms, capacity hoarding and secondary markets. In doing so, the Guidelines help further competition more widely in the gas market.

However, in developing the Guidelines, it should be recognized that they are meant to be pan-European in nature. Given that storage and flexibility markets across Europe are at different stages of development, the Guidelines need to reflect that fact; making them unduly prescriptive or too detailed in order to deal with specific situations in specific markets relating to the operation of the Negotiated Third Party Access Regime (NTPA) risks all the dangers associated with a 'one-size-fits-all' approach.

More specifically, measures that might seem appropriate in one set of circumstances might be superfluous or damaging in other situations. For instance, while the requirement for an Open Subscription Process would make sense in a developing market or one where there is either a degree of market power or shortage of flexibility, it is not clear why it should be a requirement in the liberalized and competitive GB storage market?

We note the consultation document's references to the Status Reviews of 2008 and 2009 respectively and the implementation of the 3<sup>rd</sup> Package as justification for revision of aspects of the present Guidelines. Proposing changes to the Guidelines ahead of implementation of relevant legislation sits at odds with good regulatory practice, albeit done with the best of intentions.

A more appropriate course of action would be to ensure that the 3<sup>rd</sup> Package is implemented in full and its effectiveness assessed first, especially, in this case, in relation to the creation of independent National Regulatory Authorities (NRAs). Using their enhanced powers under the 3<sup>rd</sup> Package, NRAs would seem far more appropriate to deal with the operation of NTPA in their own markets.

Such thinking would appear to be in line with the thinking of the proposed Guidelines themselves:

If, in spite of all measures aimed at optimal capacity (re-) marketing and efficient utilisation, capacity remains unused and if significant and prolonged contractual congestion occurs, the national regulatory authority may define and introduce detailed measures/provisions to effectively manage congestions, to ensure efficient capacity use in the above mentioned sense and to prevent capacity hoarding.<sup>1</sup>

In short, the 3<sup>rd</sup> Package gives NRAs the ability to address the shortcomings considered in the consultation document. Such an opportunity should be utilised prior to any revision of the Guidelines, which, when it happens, should be a holistic review rather than one looking at specific aspects of the Guidelines.

In conclusion and for the avoidance of doubt, we do not suggest that each proposal in this consultation document may not have merit in one market or another. However, our view is that the Guidelines, albeit voluntary in nature, do not prejudice or preempt the impact of the 3<sup>rd</sup> Package and effectiveness of NRAs. Our answers to the consultation's questions – see Appendix 1 - should therefore be seen as a comment on the proposals per se rather than support for amendment of the Guidelines at present.

I trust that you have found these comments useful. However, should you have any questions in connection with this response please do not hesitate to contact me via e-mail ([amrik.bal@shell.com](mailto:amrik.bal@shell.com)) or telephone (020 7257 0132).

Yours sincerely



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<sup>1</sup> See proposed new para 4.5, page 24 of the consultation document.

## Appendix 1

### **(1) To what extent do you agree that auction is the best allocation mechanism for storage and what will be the implications?**

To a very large extent, we agree with the use of auctions as they provide the most transparent means of a non-discriminatory means of capacity allocation. This is an important consideration in relation to:

- a) where demand for capacity is greater than supply; and
- b) ensuring accurate future investment pricing signals.

However, while auctions represent the easiest way forward, other options can be used subject to market conditions and proper regulatory scrutiny. For instance, the use of bilaterals, with auctions as a backstop measure, is commonplace in GB.

### **(2) In your opinion, what are the most important aspects regarding transparency that should minimally be addressed by SSOs for both CAM and CMP?**

An ex-ante publication of the maximum physical capacity of the storage facility; volumes of long-term, medium-term and short-term capacity products to be made available, updated on a daily basis; and stock levels updated on a daily basis.

### **(3) In your opinion, what is most important when designing UIOLI (including products and contracts) as to leave a storage user the flexibility to use its storage capacity when needed?**

The overriding comment we would make is that the original capacity holder must have access to their booked and paid for capacity when required. Anything short of this requirement would lessen the commercial optionality of booking storage, thereby reducing the value of booking storage.

### **(4) In your opinion, to what extent should offered services and terms & conditions on secondary markets be standardised as to improve secondary trade of storage capacity? Is standardisation a way forward to enhance liquidity of secondary markets? What aspects of secondary markets (products, contracts, etc.) are the priorities to be harmonised?**

The only proviso we would add to this proposal is that standardisation does not mean or result in an inability to innovate or offer different products and services. It could be that this proposal is considered in the context of a requirement to offer a set of minimum set of standard services.

### **(5) To what extent do you agree that (next to probability of interruption) pay-as-used can be applied as a pricing strategy for storage prices that are not regulated and what other pricing strategies would be suitable? How can pricing strategies incentivise new investment in storage and efficient use of storage?**

If storage prices are unregulated – and in a competitive market, they should be - it is not clear why any single ‘pricing strategy’ should be considered over and above another? It is our view that the market and market preferences will decide such issues and regulators should not be seen to be endorsing one mechanism over another. In that context, ‘anchoring’ contracts underpinning investment risk may still be the preference of a substantial part of the market.

**(6) In your opinion, to what extent do you consider that combined products (i.e. storage services offered at virtual hubs) of storage and transport capacities are a useful and efficient service?**

In principle, there should be no objection to this proposal. However, a hub-delivered product may raise the issue of a SSO potentially being able to trade, possibly for speculative purposes. This then raises the issue of the degree of regulatory oversight required?

**(7) In your opinion, what market mechanism (incentive) should be in place to stimulate a storage user to offer any unused capacity on the secondary market?**

It should be noted that shippers already have a commercial incentive to offer unused capacity to the market. However, in terms of operational improvements that could help facilitate offering capacity to the market, there should be a free platform provided by the SSO to allow capacity holders to offer sell injectability, deliverability and space rights separately.

**(8) In your opinion, to what extent is the (cross-border) offering of storage products/combined transport-storage products useful to market parties and what should these products (e.g. minimum requirements) look like?**

Such a product would be useful. However, areas for subsequent harmonisation are extensive, including nominations, imbalance calculation and overruns. That said, it may be that the development of Network Codes to apply at points of interconnection are helpful in this regard.

**(9) To what extent do you consider the proposals will facilitate allocation and congestion management of storage capacity? What other measures should be in place?**

*(9.1) In particular, what possibilities do you see to enhance efficient use of storage, reserved for public service obligations like e.g. strategic storage or other reserved storage? Under which conditions would additional use of such storage as (interruptible) short-term product or remarketing on secondary market be acceptable? Could you give examples from your day-day experience?*

As suggested in the covering letter, what is proposed may well represent an improvement in some markets but a retrograde one in others. As such, it is not possible to answer this question.

*(9.2) In particular, what best practice for CAM and CMP should be in place for specific cases when parts of LNG terminal facilities potentially function as storage capacity? Could you give examples from your day-day experience?*

This is a separate issue and should not be included within the scope of the GGPSSO.

**(10) To what extent would you agree NRAs should be endowed with additional competences in developing CAM and CMP?**

It would seem appropriate to allow NRAs to function and operate in line with the requirements of the yet to be implemented 3<sup>rd</sup> Directive before considering additional powers they may or may not need.