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Dear Walter

ERGEG consultation on existing transparency requirements for natural gas

EDF Trading supports the development of comprehensive, legally binding, transparency requirements across the gas value chain including gas production. The Third Energy Package already provides binding requirements for:

- gas TSOs
- gas storage
- LNG
- interconnectors

While there are some gaps in these areas (for example the provision of information closer to real time), the only area where there are currently no formal transparency requirements is in gas production.

This major gap in the transparency framework must be filled as a matter of urgency. We urge ERGEG and the European Commission (EC) to develop new binding requirements that can be incorporated into the EC's proposed market integrity and transparency regime for energy (REMIT).

There are three key areas where improvements in gas production transparency are necessary to bring it into line with what ERGEG has already proposed for all power markets:

- *notification of unplanned outages from individual gas production facilities above a minimum threshold – with no commercial transactions permitted on the basis of the outage notification before it is released to the market;*
- *real time gas flow information from individual gas production facilities above a minimum threshold – although as an interim step true real time gas flow information should be published for all entry and exit points to EEA gas transmission networks; and*
- *planned maintenance information for individual gas production facilities above a minimum threshold for the next three years including updates without delay if plans are altered.*

Very little information is currently published in these areas (even in well developed markets like the UK) and what is available tends to be released on an ad hoc basis. For example, market participants tend to find out about an unplanned outage when unusual volumes are traded in the market; on the newswires based on rumours; or through other press channels if it is a major incident. Official confirmation of an unplanned outage is usually a lot later and sometimes isn't sent at all.

The benefits of increased transparency in gas production in the areas identified are clear. It will:

- facilitate the development of efficient markets through better price discovery – prices in the market will reflect all available information which means faster price reaction to changes in supply fundamentals

- help reduce the scope for market abuse and increase integrity in the market by ensuring all market participants have access to the same information at the same time
- create a level playing field between producers and non-producers as well as ensuring similar levels of transparency in both power and gas sectors
- support better understanding of security of supply as more detailed information will be available in a more timely manner
- ensure the costs of outages are borne by the owners of the affected assets (who are in the best position to understand and mitigate the costs and risks) rather than being socialised across the whole market

The current level of transparency in gas production contrasts starkly with power generation. Many countries already have very good voluntary arrangements (e.g. Germany, Nordic, France) and ERGEG has proposed detailed binding transparency requirements for power for all markets in order to ensure there is a basic level of information provision across the EU.

Gas production is fundamentally the same as power generation. Both activities involve the operation of large engineering assets often with complex commercial arrangements. Despite these issues it has already been possible to develop effective transparency arrangements in power generation, and we are not aware of any technical or security of supply reasons why there should not be similar binding transparency requirements for gas production. Any differences between power generation and gas production can be taken into account in the detailed design of the transparency requirements.

There is a need to consider how the binding requirements for gas production are brought forward as it is not clear whether the 3rd Package provides vires to do this. One option would be to expand the definition of transmission to also include offshore networks as they essentially undertake the same role (the transportation of gas at high pressure). This would allow the existing transparency requirements on gas TSOs to be applied to the offshore transportation networks.

Set out below in Annex 1 are our answers to the specific questions outlined in the consultation paper, which illustrate and expand on the points made above in more detail. Annex 2 contains an outline disclosure regime for unplanned outages.

Yours sincerely

Jonas Törnquist
Head of Transmission and Regulatory Affairs

Annex 1: Answers to ERGEG's questions

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?

The 3rd package is an important step forward in the provision of information and as a first step the transparency requirements must be implemented fully and consistently to the specified timetable. EDF Trading remains concerned that the current requirements on TSOs are not sufficient to meet the needs of market participants and may not deliver an appropriate level of market liquidity. In particular, TSOs must provide more detailed and frequent (within day) information on capacity and real time gas flow information.

We would expect to have a similar disclosure regime in the areas of both planned maintenance and unplanned outages for storage and LNG facilities as we propose for gas production (see below) as they are not covered within the 3rd package requirements or 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 due to the lack of transparency requirements or the quality of publication.

There remain specific gaps in the information that system operators should be providing to the market (as identified above) which need to be filled. In addition, the quality of information that is published will, to a large extent, be determined by the level of detail outlined in the specific requirements. In this respect it is also crucial that ENTSOG takes the lead in helping TSOs be in a position to meet their legally binding requirements from March 2011. A key aspect of this will be ensuring that a consistent approach is taken on the definition and publication of information. We note that ENTSOE has published proposals for consistent information definitions in the power market and ENTSOG should follow suit by publishing draft gas definitions before the end of 2010.

ENTSOG's "Gas Roads" Transparency platform is a useful tool for providing static data elements of the Regulation in a consistent manner in a central place. It is questionable whether dynamic near real time flow information would be best provided centrally through this platform or through TSOs' own websites. As a minimum, the information should always be published by the TSO as this minimises any potential delays in the provision of this information.

Do the existing 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. There is a need to consider whether and how the remaining voluntary arrangements are made binding.

Do you think that those transparency requirements in the GGP LNG and GGP SSO which are not legally binding should become legally binding?

The transparency requirements in the GGP LNG and GGP SSO are necessary for efficient market functioning. In order to ensure consistent implementation across the EU the voluntary requirements should be made binding.

Do you think the voluntary GGP for LNG System Operators and GGP for Third Party Access for Storage System Operators shall include further transparency requirements? In case your answer is yes, please specify what is missing in your view.

EDF Trading does not see a need to further supplement the existing (voluntary and binding) transparency requirements for LNG and SSO system operators – although there is a need to ensure all requirements legally are binding.

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.

EDF Trading's view on gas production transparency is set out in our answer to the next question.

EDF Trading set out its view on a need for post trade reporting of wholesale market transactions in its response to the EC's consultation on market integrity and transparency¹. In summary, we support the publication of anonymous transaction data on a regular basis.

In order to achieve the EU's vision of liquid within-day trading hubs, market requirements for data will change over time and there will be new requirements for data provision. For example to support the intra-day market or the enhancement of secondary capacity trading and the development of market based balancing. ERGEG and the EC should keep under review the transparency requirements to support the development of an integrated and competitive EU gas market and bring forward proposals as necessary.

As patterns and sources of gas flows change over time there may be an increased need for the provision of gas quality conversion and treatment facilities. If access to such facilities becomes important for the operation of the wholesale gas market then there may be a need to consider what information needs to be provided to ensure effective access.

¹ EDF Trading response to DG Energy consultation on market transparency and integrity (July 2010).

Do you think 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 specify why.

Yes, it is crucial that binding requirements for gas production transparency are brought forward as a matter of urgency.

The envisaged arrangements for power generation provide a good starting point from which to develop similar arrangements for gas production. EDF Trading supports EFET's² progressive position on power generation transparency which calls for:

- immediate disclosure (within 30 mins) of unplanned outage for all units >100MW plus cause
- availability forecast (i.e. planned maintenance) for each individual unit >100MW for different timeframes
- real time output from each individual unit >100MW

A number of issues need to be considered in developing similar transparency arrangements for gas production. These are not barriers to progress and are the same issues that have already been looked at in power generation. There is no reason why the differences between the two sectors cannot be taken into account in the design of the detailed transparency requirements.

Unplanned outages

There are two key differences between power generation and gas production that need to be taken into account:

- *greater scope to manage an unplanned outage in gas production through operational measures (although hydro power stations provide similar flexibility). Transparency requirements should not prohibit firms from taking operational measures as this could be the most efficient response to an unplanned outage although guidance may be needed on the type of operational measures allowed*
- *the majority of gas production facilities are distant to TSO networks as opposed to being directly connected in power – this means it may be some time before the physical impact of an upstream gas production outage is seen downstream*

These two differences suggest there should be no predefined restriction on the timing for release of a notification of an unplanned gas production to the market. Rather, the trigger for release of the notification should be when any individual in the owner/operator firm of the affected asset (or its partner companies) who can make commercial transactions is informed about the outage from the operationally responsible staff. No commercial transactions in the wholesale market should be allowed on the basis of the outage notification before it is released to the market.

There will also be a need to identify appropriate thresholds both in terms of the infrastructure that should be included and when an unplanned outage should be reported. EDFT's initial view is that all EEA gas fields/platforms

² Insert reference

with flow rate of at least 0.1 mcm/hour should be included.³ Related gas processing and other infrastructure, including those at a terminal, that are necessary to flow gas into the national gas transmission system should also be included. In terms of the actual outage, any incident that causes actual flow rates from gas fields or platforms to fluctuate by an amount of at least 0.05mcm/hour should be reported to the market.

Real time flow information

Real time flow information for individual fields/platforms could be more difficult to achieve in the short term but it should be retained as an objective particularly as a significant amount of production facilities are distant to the TSO network and as such the earliest that market participants will know about changes in flows of gas will be when they are reported at the TSO entry point which could be many hours after the actual changes. This creates a significant information advantage for upstream producers. A potential compromise, for now, would be the provision of genuine real time flow information at all entry/exit points to the TSO network.

The new binding transparency guideline for gas TSOs specify that gas flow information must be provided by TSOs close to real time and when updates are available. EDF Trading is concerned that TSOs are interpreting this requirement differently and as a result we expect very few will actually publish real time information from March 2011. We recognise in some cases provision of real time information may require additional investment – for example in metering – but the benefits that will be delivered to all market participants will significantly outweigh any costs, including:

- facilitating more efficient network operation including better management of network congestion
- better understanding and management of security of supply including the use of backhaul flows
- greater liquidity in wholesale traded markets which should benefit consumers

As you will be aware, a study undertaken by the UK energy regulator (Ofgem) in 2006⁴ to assess the costs and benefits of providing real time flow information concluded that the net benefits in Great Britain ranged from £83-£122 million in NPV terms, with only limited IT costs.

Planned maintenance information

Forecast planned maintenance for gas production fields and platforms is needed so market participants can assess the availability of gas production capacity. This information should be provided for individual facilities - similar to the ERGEG transparency proposals for power generation. This is because the technical characteristics of each facility will be slightly different and as such market participants need to be able to form their own views of how long particular facilities are likely to be unavailable based on an analysis of actual events.

³ A different threshold may be appropriate for individual markets. For the UK, the 0.1mcm/hour is comparable (assuming peak winter gas demand is around 425mcm/day) to the suggested power threshold of 100 MW (which is around 0.2% of peak UK winter power demand).

⁴ "Publication of Near Real Time Data at UK sub-terminals". Impact Assessment. February 2006.

Some common arguments and misconceptions

There are a number of issues that could be seen by some as potential barriers to implementing improvements in gas production transparency. EDF Trading believes these are not valid justifications for putting in place a deficient transparency framework in gas production:

- *Gas producers should not be allowed to delay notification to the market of an unplanned outage in order to take commercial decisions to cover it because it would:*
 - lead to difficulties distinguishing between hedging and other traded activity and create uncertainty about what would be permissible activity. This would undermine integrity in any transparency framework;
 - create complexity regarding what trading would be allowed in related markets (both product and geographic) on the basis of the outage information before it is released to the market;
 - mean a firm covering an outage through a commercial transaction before an unplanned outage notification is published would essentially be ‘front running’ the market and that prices in the market would not reflect the new supply fundamentals (following the unplanned outage) at the time when the firm experiencing the outage transacted in the market; and
 - increase the need for ex post regulatory scrutiny on when the information is released and the nature of any trading before notification to the market.

- *Publishing information on gas production will not undermine investment:*
 - we do not know of any evidence that establishes a link between publishing information on power generation outages and the creation of investment barriers and we see no reason why gas production should be any different;
 - as the potential costs of an unplanned outage will alter the risk profile, a gas producer would recover those potential costs across its whole production base as prices will be risk adjusted to take into account the risk of a through unplanned outage.
 - any additional costs arising from restricting a firm from trading to cover unplanned outages before notifying the market are not expected to be large. This is because the costs will be limited to the particular balancing period impacted by the outage. The costs of covering longer term outages exist regardless of the disclosure regime.

- *Publishing information on gas production in the EEA will not create a competitive disadvantage compared to non-EEA producers:*
 - all gas flows should be subject to the same transparency regime once it enters the EEA network – this ensures a level playing field for all gas flowing into and within the EEA network;

- there is very little scope for a non-EEA producer to exploit any competitive advantage unless the unplanned outage is a long term problem. However, all market participants would know about such a long term outage anyway through the press even without a disclosure regime; and
 - the release of data on outages and planned maintenance does not reveal a participant’s trading position.
- *Publishing information on gas production will not increase market uncertainty, volatility and prices because:*
 - the absence of a detailed disclosure regime for gas production information itself creates uncertainty and impacts negatively on market liquidity. We expect improvements in gas production transparency will actually improve the efficient operation of the market;
 - the publication of unplanned outage notifications will not create additional volatility as the market will learn very quickly about the how information on gas production may impact on market prices; and
 - in a liquid market a single outage experienced by a market participant is unlikely to have a major impact on price. There is also little risk of a participant being “squeezed” and this reduces significantly with multiple buyers and sellers as is the case in most developed EU gas markets.

Annex 2: Outline regime for disclosure of unplanned outages for gas production

Scope

Relevant Infrastructure is defined as all EEA gas fields/platforms with flow rate of at least 0.1 mcm/hour.⁵ Related gas processing and other infrastructure, including those at a terminal, that are necessary to flow gas into the national gas transmission system are also included

Definition of Unplanned Outage

An *Unplanned Outage* is an event at a *Relevant Infrastructure* that impacts on actual flow rates from gas fields or platforms by an amount of at least 0.05mcm/hour.

It does not include:

- events on the national gas transmission system that impact on the *Relevant Infrastructure* (which should be reported by the national transmission system operator)
- outages resulting from contractual interruptions
- outages resulting from planned maintenance activity (which includes any outages reflected in nominations on a day-ahead basis)
- reductions in send out rates at LNG facilities due to late or non-arrival of an LNG vessel

Market Messages

The operator of the relevant infrastructure should publish An *Initial Market Message* on a freely accessible website and through electronic notification to all *Registered Users*⁶. The specific issuer of the *Market Message* will depend on the individual market and the type of infrastructure impacted by the *Unplanned Outage*.

The *Initial Market Message* should include:

- the time the outage occurred
- what platform/field (or related infrastructure), LNG or storage facility has been affected
- The quantified reduction in actual flows, actual send out rates or actual injection/withdrawal rates. There is no minimum or maximum reportable threshold levels (except those defined in the scope above)

⁵ A different threshold may be appropriate for individual markets. For the UK, the 0.1mcm/hour is comparable (assuming peak winter gas demand is around 425mcm/day) to the suggested power threshold of 100 MW (which is around 0.2% of peak UK winter power demand).

⁶ There should be no additional requirements to become a registered to receive notifications – only the provision of a valid email address.

- An initial view, and short description, of the cause of the *Unplanned Outage* if this is available at the time the *Market Message* is published (e.g. fire at facility, anchor strike, faulty valve, etc)

An *Updated Market Message* should be published if:

- the cause of the *Unplanned Outage* becomes available after the *Initial Market Message* is released and/or there are any changes in the cause of outage;
- there are material developments in any repair works being undertaken that may impact on the timing for when the infrastructure will resume operation – including a description of the steps that have been taken or that will be taken in the future;
- there is any partial restoration of actual flow rates, actual send out rates or actual injection/withdrawal rates

A *Final Market Message* should be published when the gas field/platform or LNG or storage facility is operating at, or capable of operating at, its maximum technical level.

All *Market Messages* should be published on public website and notification provided to all *Registered Users* without delay (except where Health and Safety legislation or other relevant legislative requirements dictate delayed publication).

Information included in *Market Messages* should not be communicated in any kind of way to commercial staff of the company or wider Group which owns or operates the affected *Relevant Infrastructure* before it is released to the market.