

## **EFET's responses to ERGEG's public consultation paper on the assessment of Capacity Allocation Mechanisms and Congestion Management Procedures for effective access to storage and proposals for the amendment of the GGPSSO.**

### **The EFET vision for Storage**

EFET<sup>1</sup> advocates a light touch approach to regulation of storage where competition ensures fair and non-discriminatory access. In other words, there should be no regulation of storage beyond general competition rules and necessary transparency requirements. Our vision of how storage access should be regulated is a system that encourages a transition to a competitive market based storage access.

Although the main role of the 3<sup>rd</sup> package legislation and Guidelines for good practice on storage is to open up existing storage to greater levels of competition, consideration is also needed to address the issue of whether the existing storage capacity in Europe is sufficient. In the past key national gas industry players had long investment horizons and little uncertainty with regard to the use of their underground natural gas storage facilities. With the opening up of competition in Europe, the current and expected regulatory framework has made investment decision-making more difficult.

EFET believe that the current broad definition of NTPA would include some facilities which could be defined outside the existing TPA framework and a strict application of GGPSSO across all NTPA facilities may well hamper the development of the market. Similarly there are facilities which should have RTPA applied but only have NTPA.

EFET considers that more work needs to be done on the CAM/CMP for storage to ensure that it is better targeted to markets/storage facilities that would benefit from it and to ensure it does not deter investment in markets where it is not needed.

### **Market Test**

It is important that regulators establish a standard market test to determine the degree of regulation required for each national market. EFET considers that this test should assess the level of competition in the flexibility market to inform regulators as to what type of regulatory regime is necessary. If regulation is needed in that market, it is important to understand what needs to be done to facilitate a transition to a lighter touch regulatory regime. It is also important to point out that in a country where NTPA or RTPA is necessary; a new entrant investing in a storage facility should be able to benefit from a lighter touch regulatory regime, dependent on its market share and the positive effect the storage has on competition. This would need to be judged on a case by case basis.

### **Market based access to storage capacity subject to TPA**

Market-based storage access is essential to ensure further market integration, appropriate investment signals and liquidity in the flexibility markets. Markets will deliver the most efficient portfolio of flexibility instruments (flexible production, domestic and

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<sup>1</sup> The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. EFET currently represents more than 90 energy trading companies, active in over 27 European countries. For more information: [www.efet.org](http://www.efet.org).

foreign storage flexibility, flexible procurement contracts, and intraday products) at lower costs than any regulated regime.

**Concerns on ‘capacity goes with the customer’ and pro-rata allocation**

Allocation mechanisms such as “capacity goes with the customer” limit storage capacity to a specific target group and hamper cross-border transactions and efficient allocation of flexibility across the EU as a whole. Additionally, this is detrimental for competition development in the wholesale market as it encourages vertical integration and deters new entry.

**Storage Capacity and Market conditions**

Any assessment of appropriate capacity allocation mechanisms (CAM) and congestion management procedures (CMP) should not only consider the effectiveness of existing TPA, UIOLI and flexibility instruments within a member state but also consider the wider impact of these arrangements in the integration process and on the European gas market as a whole.

**Reply to ERGEG questionnaire**

Some of our replies to the ERGEG questionnaire should be understood as non-applicable until effective competition test for flexibility services has taken place. We have indicated where this is the case.

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

Subject to a review of the flexibility market EFET agrees with ERGEG’s opinion that auctions are the simplest means for ensuring market-based and non-discriminatory allocation of storage capacity and therefore represent our preferred allocation method when storage facilities are subject to TPA. A set of yearly, monthly or rolling monthly auctions with a clearing price mechanism shall apply. A reserve price should be defined by the SSO. The use of other allocation mechanisms, eg. bilateral negotiations, to run alongside auctions may be justifiable in certain circumstances, namely the level of competition.

In any event, a market based balancing regime is also crucial to ensure the effectiveness of price signals

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

Relevant SSOs should be regularly providing information should be consistent with the requirements of the third package and include:

- Daily injections and withdrawals at each storage facility
- Historical flows / levels of utilisation at each storage facility;
- Maximum technical capacity;
- Available firm capacity at each storage facility;
- Booked firm and interruptible capacity;
- Historical interruption data;
- Prices and tariffs / charging methodologies for capacity allocation.

Moreover, any decision related to capacity allocation should be communicated in a timely manner so that stakeholders are given sufficient time to comply with internal decision making procedures.

**(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?**

In a fully functioning liquid market, shippers have the necessary incentives on them to sell unwanted capacity to other market participants on the secondary market or offer a virtual storage product at the trading hub and therefore UIOLI in these markets is not necessary.

Applying UIOLI with respect to storage capacity is complicated as realistically only parts of the storage service are suited to UIOLI. In particular injection and withdrawal capacity is generally made available to existing customers, however interruptible space is harder to sell.

Any market party who wishes to utilise UIOLI capacity at a certain storage facility would need to be signed up as a user of the storage facility before participation can occur. However, even then, relying on UIOLI for access to flexibility would be a risky strategy for many market parties as interruption could occur at any point. Thus in the more competitive markets, flexibility products sold at the trading hubs would be more desirable.

EFET believes that firm long term UIOLI will decrease market stability through a decrease of firmness of capacity rights and will hinder investments through a decreased incentive to book capacity for the long term. In expected cases of abuse of position or hoarding, a case-by-case approach should be applied, through regulatory or competition authorities. This approach maintains the firmness of capacity contracts, whilst addressing specific cases of expected abuse.

**(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?**

Standard terms and conditions for the secondary market may well be helpful but are unlikely to be best solved through the GGPSSO as these are established between counterparties rather than with the SSO. Focus for the SSO should be on facilitating the transfer of storage capacity between counterparties.

**(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?**

Often long term commitments enable investors to underwrite the cost and risk of new developments. However, this area is especially dependant on the level of competition in the market for flexibility and who is undertaking the investment. For example an incumbent with a monopoly storage position should not be allowed to tie up capacity in a new storage facility for several years.

It is therefore important to establish the competitive conditions of the market for storage before establish specific rules.

**(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?**

Combined products of storage and transport capacities could be a useful and efficient service but it may not be appropriate to force all storage facilities to take positions on virtual hubs. If customers want this service the SSO should be open to providing it, although its subsequent trading activities will need to be monitored by the NRA

**(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?**

Effective functioning gas markets should enable users to price flexibility. This should provide sufficient signals for users to offer capacity to the market. However, where markets are not functioning there would be less transparency over the price of flexibility.

The extent to which incentives should be used should depend on the competitiveness of the storage market and the number of market parties with access to storage.

**(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?**

Flexibility markets should not restrict the access to storage for specific functions. If a market functions correctly, this sort of issue should not arise.

**(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?**

For those countries who opt for a regulated access regime, EFET believes the suggested amendments to the GGPSSO will facilitate the allocation and congestion management of storage capacity.

**(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?**

Storage clearly plays a crucial role in maintaining the security of supply in Europe. However, national requirements for 'strategic' storage often imply barriers to entry and distort competition in the flexibility market. Where in place they should be minimised and

costs should be recovered in a non-discriminatory way (paid by tax payers or by transport/storage tariffs) without additional complexity for market players.

Capacity goes with the customer should be ruled out because it is not required for PSO. ERGEG should recommend that national governments remove these restrictions. This capacity could then be utilised in a broader market context.

**(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?**

EFET feel that 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?**

In our view no further powers need to be granted to NRAs to develop the necessary changes to CAM and CMP. However, in the case of regulated storage and allocation rules introduced by primary laws, reforms to storage market rules could be better facilitated by giving users the right to formally propose access rules. Such proposals would then be approved or rejected by the relevant NRA with an appeals process to provide a safeguard for affected parties if a decision of the NRA is necessary.

EFET believe that competition levels in flexibility markets vary across Europe and that as a result ERGEG and national regulators need to undertake a review of the levels of competition in each market to determine the requirements for additional changes to the CAM and CMP for Storage.