WINGAS response to:

ERGEG

Public Consultation Ref: E10-GST-09-06

ERGEG's Assessment of Capacity Allocation Mechanisms and Congestion Management Procedures for effective access to Storage and proposals for the Amendment of the GGPSSO

Introduction

As a general matter, we would like to underscore that the German storage market is growing market-driven and fast. Independent observers (like the German Monopolkommission) acknowledge a strong competition both between different storage sites and between storage and other flexibility markets, as well as considerable investments in new storage sites. As a consequence, the German storage market is becoming increasingly liquid with more and more free capacities being offered.

The storage department of WINGAS explicitly supports measures that are market-driven ensuring a certain level of harmonization and a level playing field for all market players. At the same time, it is of utmost importance that those market-driven processes are not compromised by regulatory requirements that step out of line of the requirements enshrined in Regulation (EC) No-715/2009 that entered into force only recently.

It is important to keep in mind that storages are used for different purposes by different customers. Capacities are not only used as a trading instrument (as suggested by some of ERGEG's remarks) but also as a means to respect obligations to secure gas supplies. That fact should be a leading consideration as regards designing an adequate "use-it-or-lose-it" (UIOLI) mechanism. The European legislator – apparently having in mind that specific nature of gas storage – rightly limits the use of UIOLI mechanisms to the obligation to offer unused capacity on a day-ahead and interruptible basis (Art. 17.3 of Regulation (EC) 715/2009).

As the support of market-driven procedures should be the measuring stick of all regulatory requirements, it is fundamental to avoid a standardization / harmonization of products since this restricts market opportunities. Where needed, a harmonization of processes and procedures (e.g. IT requirements) might be helpful in order to guarantee a level playing field. Sticking to a market approach in our view forbids as well to assess auctions as the *only* suitable allocation mechanism for storage.

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

In our view, that argument is too general to be valid. Contrary to ERGEG's view, there is no single allocation mechanism that fulfils the requirements established by Art. 17.2 of Regulation (EC) 715/2009. ERGEG rightly points out that it is necessary to make a differentiation between a market situation in which sufficient storage capacity is available and in which there is a scarcity of storage capacity. In the latter case, auctions are a possible allocation mechanism, while in the former case FCFS – due to its simplicity – shall be the standard allocation method. In addition, as ERGEG equally acknowledges, a number of additional prerequisites have to fulfilled in order to make auctions a meaningful allocation method (exclusion of strategic misconduct, sufficient number of bidders). It is crucial that auction terms are designed carefully in order to avoid unintended side effects (like price-enhancing effects; shortfall of investments in storage due to insecurity). In case SSOs apply auctions, they should have the competence to appropriately design auction terms in consultation with stakeholders and taking into account investors' requirements.

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

With respect to CAM, we are in line with ERGEG's view that it is necessary to publish detailed information on timing, schedule and results of applied allocation mechanisms on the internet in the local language as well as in English. In our view, it is self-evident that the establishment of transparent procedures is in the very self-interest of SSOs and therefore constitutes a market-driven process that does not need specific regulatory prescriptions.
Pertaining to CMP, we judge Art. 19.4 of Regulation (EC) 715/2009 as a sufficient general description of the necessary requirements. Again, we wish to stress that transparency in that regard is in the very self-interest of each SSO. At the same time, it is necessary to acknowledge the (equally market-driven) limits regarding transparency. Since there are with good cause short renomination deadlines (which favour specifically smaller customers having a restricted flexibility portfolio), the publication of real-time data to forecast the availability of interruptible products is after all meaningless. For the same reasons, predictions with respect to "longer outlooks" are not possible: SSOs simply do not have information on the individual storage use.

(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?

As the storage department of WINGAS, we do not want to comment at length on the design of "use-it-or-lose-it" (UIOLI). As pointed out in our introduction, we would like to remind that storages are used for different purposes by different customers. Capacities are not only used as a trading instrument (as suggested by some of ERGEG's remarks) but also as a means to respect obligations to secure gas supplies. That fact should be a leading consideration as regards designing an adequate UIOLI mechanism. The European legislator – apparently having in mind that specific nature of gas storage – rightly limits the use of UIOLI mechanisms to the obligation to offer unused capacity on a day-ahead and interruptible basis (Art. 17.3 of Regulation (EC) 715/2009). In that regard, the definition of "non used" capacity is crucial and should take into account both the different purposes of gas storages (including security of supply considerations) as well as other possible constraints (e.g. climatic conditions, specific market conditions, protection of property as a possible limit on an encroachment in valid contracts).

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

Valuing support of market-driven procedures as the measuring stick of all regulatory requirements, it is fundamental to limit a standardization / harmonization to (basic) procedures and processes (e.g. IT, availability of standard contracts). A standardization of storage products should in any circumstance be avoided since that would be contrary to the variety of market demands (and possibly on an individual basis not feasible due to geological and physical constraints). Incidentally, the liquidity of secondary markets depends to a large extent on the liquidity of primary markets.

(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?

In any case, pay-as-used only should apply to the case of interruptible (day-ahead) capacity, hence in the framework of contractual congestion. In that regard, it might bring forward – as part of a more comprehensive pricing scheme – the efficient use of storage.

Under no circumstances it should be seen as a general pricing strategy since it cannot assure a reliable stream of income for SSOs, thus having an impact on the willingness to invest in storage capacities. Used as a long-term pricing strategy, it is rather a stimulus to hoarding rather to discourage it.

(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 might be a useful and efficient service if possible and if required by customers. Again, we are convinced that the offer of such products – given corresponding demand – will be driven by market forces since it is in the self-interest of the relative SSO, thus making explicit regulation unnecessary. The design of capacity products is a central part of the marketing strategy of each SSO, permitting a differentiation in a strongly competitive environment and thus being a driving force of competition.

(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?

As the storage department of WINGAS, we do not want to comment at length on that more trade related issue. Again, we would like to remind that Art. 17.3 of Regulation (EC) 715/2009 already requires to sell unused capacity day-ahead at least on an interruptible basis. In our view, the customers' interest to avoid needless cost should be a sufficient driver to offer unused capacity to the market (and a common internet platform such as Store-x might simplify transactions). Incidentally, we would like to remark again that the liquidity of secondary markets depends to a large extent on the liquidity of primary markets.

(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?

Referring to our answer to question (6), we do not support any detailed specification on potential products since we are convinced that respective products will emerge as a result of market demand. The design of capacity products is a central part of the marketing strategy of each SSO, permitting a differentiation in a strongly competitive environment and thus being a driving force of competition. The offer of such products should therefore be in the sole discretion of each SSO. On any account, it has to be avoided that marketing risks of transport capacities are transferred form TSOs to SSOs (e.g. by an enforced purchase of transport capacities). Incidentally, we advert on the fact that combined transport-storage products presuppose sufficient non-interruptible transport capacities.

(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?

As pointed out before, we are convinced that some of the approaches may be able to optimize CAM and CMP, while others are simply unnecessary and possibly even have a detrimental effect on the free development of market forces. For instance, the intended "buyback" obligation increases SSOs financial risk as a resale is not guaranteed and might be used by storage customers as an instrument to reduce payment obligations. At any case, it should be avoided that there are any privileges or exceptions due to different regulatory or legal requirements in each of the member states.

(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 markets be acceptable? Could you give examples from your day-to-day experience?

Due to several reasons – e.g. daily instead of hourly balancing transport regime, decreasing domestic production, unbundling of trading, transport and storage – storage capacities for security of supply are required in future even more than today. This challenge cannot be mastered by marketing such capacities on a short term (interruptible) basis. The buyer of such (interruptible) capacities, which has withdrawn gas within respective capacities, will most probably not be able or willing to inject or deliver the gas again within the contractual time frame in case of unpredictable shortcomings on the national or European gas market.

(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-to-day experience?

Not applicable.

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

Since Regulation (EC) 715/2009 just recently entered into force (and will be applied starting from 3 March 2011), it is far too early too wonder about possible additional competences NRA's should be endowed with in developing CAM and CMP.