

Gas Natural Fenosa comments to ERGEG Public Consultation on Existing transparency requirements for natural gas

Gas Natural Fenosa welcomes the opportunity to respond to ERGEG Public consultation on existing transparency requirements for natural gas that we consider is vital to market energy integration.

Questions

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

Effective information transparency together with and effective access form the basis for the creation of competitive energy markets and the development of liquid market.

The Third Energy Package is an important step forward that will improve transparency levels but additional binding requirements are necessary for LNG and Storage. There is an imbalance between the transparency requirements for transmission on the one side and the transparency requirements for LNG and gas storage on the other side. Most of the legally binding transparency requirements apply to transmission systems but not to LNG and gas storage facilities.

Taking into account that LNG trade is growing and developing fast and it is expected to play a more important role in the future in Europe we call for LNG (regulated and exempted) gas transparency to be made legally binding.

- 2. 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.**

The recent approval of the Regulation (EC) num. 775/2009 will provide enhanced information provision to the market. This regulation provides a level of granularity and “near-real-time” flow information required for efficient and integrates markets.

Nevertheless, we have some concerns on how all the requirements included in the Regulation are going to be implemented taking into account that it is coming into force on 3rd March 2011. Requirements as for example, information published in English or in a

downloadable format allowing for quantitative analysis is not yet accomplished by some Member States. Therefore, we call for ENTSOG to collaborate with the TSOs helping them to meet their regulation requirements and for NRAs to control and monitor the correct and full application of these requirements under ACER supervision.

3. 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?

No. We believe that voluntary GGP have to be reinforced in the scope and the content:

a) Regarding the scope:

First of all, and as we mentioned before, LNG imports are likely to increase in the coming years playing thus, an increasingly important role in the Energy European Market. Facilitating access to LNG European terminals and enhancing information regarding LNG facilities is crucial, both to improve competition and security of supply.

Taking into account that there are several LNG projects across the EU (new plants or expansions), most of which have asked for an exemption to TPA regime according to article 22 of the Gas Directive 2003/55/EC and article 36 of Directive 2009/73/EC we consider that transparency requirements should be extended to LNG plants, both regulated and exempted¹. Otherwise, the trade and movement of LNG across the EU would not improve and markets would not benefit from it.

b) Regarding the content:

It is important to mention that Eurogas and EFET agreed a joint note regarding a potential harmonisation of LNG services and sent it to ERGEG. Some of the points of the voluntary guidelines for LNG match up with the requirements of the joint list. Nevertheless, there are others points related to harmonisation procedures and operational matters (slots

¹ *LNG plants are entry points to national markets which imply that transparency requirements are important for shippers, no matter whether they are regulated or exempted. As it has been acknowledged for some exempted LNG plants in commercial operation, there might be certain situations in which an exempted LNG plant is not used by the shippers that have booked the capacity, but could be used by third ones. For this to be realistic, information should be made available to the market on time.*

allocation, operational rules, etc) that we believe should be taken into account as transparency requirements.

4. Do you think that those transparency requirements in the GGP LNG and GGP SSO which are not covered by the 3rd package should become legally binding?

Yes.

a) LNG TERMINALS:

Several of the transparency requirements and good third party access practices described into the GGPLNG of ERGEG dated May 7th 2008, in our opinion, should be defined and implemented as binding requirements for a proper and competitive functioning of the access mechanisms to all LNG facilities. At least the following items of information should be disclosed in a clear and easily accessible way, in a non discriminatory basis, in standardised formats under user-friendly platforms and also regularly updated;

- The terminal code, specially rules detailed code specifications and terminal manual code prescriptions related to secondary capacity access
- Approved or contractual tariffs for each service, thresholds and penalties, as applicable. They should be published ex ante
- Existing and new future LNG terminal capacities
- Updated maintenance plans and disruption resolution forecasted schedules and disruption occurred reports
- Calculation methodology for available capacities for each service
- Contractual congestion management. Binding measures program to be taken for the release of underutilized capacity on behalf of primary holders. UIOLI procedures and requirements in an available time enough basis should also be defined and reinforced because under the present situations it's impossible for shippers not implied as users in some terminals to take advantage of this mechanism (with just seven to fifteen days in advance)
- Ship approval and gas quality requirements.
- Scheduling procedures for cargoes unloading. These should include at least the contractually binding notice periods for using the services (scheduling program, (re)nominations) and the priority rules in case of conflicting nominations
- Appropriate instruments to make booking on a short-term basis.

These transparency requirements should be available to potential market users with no cost; otherwise it could become a barrier for entry.

It is important to refer the recent ERGEG study on congestion management procedures and antihoarding mechanisms in the European in which it is established that in some cases disclosure information of LNG terminals is very disseminated and difficult to find directly on their web page. Also, transparency regarding the technical parameters and procedures of the terminals is very poor. In that sense, we refer again to the list agreed between EFET & Eurogas.

b) STORAGE FACILITIES:

Regarding storage system we consider that some of the transparency requirements established in the Guideline for good TPA practice for Storage System Operators should be binding. Otherwise, no result in transparency development is going to achieve. These guidelines are dated the 23rd of March 2005 and despite the period of time elapsed, there are still important points that are not met and developed across the different Member States. For example, where negotiated storage access is in place (France), SSO does not published prices in a time frame required with the storages users' reasonable commercial needs.

In other Member States (Italy) while the annual capacity offer to the market is estimated by the storage operator according with a simulation method, updated information regarding storage capacity levels is needed.

In addition, we would like to note that there are some TPA access issues that there will not be resolved with further transparency requirements. We refer to situation where suppliers are obliged to book underground storage in order to fulfill SOS criteria and however access tariffs are not regulated.

- 5. Do you think that 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.**

SEE the reference to the joint list between EFET & EUROGAS in our response to question 3 of the consultation.

- 7. 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.**

As mentioned before effective information along the gas value chain is fundamental for the development of a competitive and integrated market. We believe that the same transparency requirements that applied to power should applied to gas on a common basis.

Publication of both unplanned outages and planned maintenance information should be consistently applied across all Members States. Immediate publication of information on gas production flows, production capacity and unplanned production outages should be desirable in order to guarantee a level playing field among stakeholders.

As an interim step, GNF believes that at least the information on gas production for both unplanned outages and planned maintenance should be released to market and to the commercial arm of the owner production facility as the same time. Before the information is released to the market, owner facility is allowed to take operational steps to mitigate any loss in output but not to trade in order to cover the outage. In any case, the information should be disclosed to the market before the effect of the upstream outage is measurable at the entry point to the downstream transmission system.

The information should disclose the individual field, related infrastructure, LNG or storage affected because of the outage. It should be also required that the information contents an initial view and short description of the cause of the unplanned outage if this is available at the time the information is published. Update information should be published in certain cases (when there is any partial restoration of actual flow rates, for example).

As it happens regarding power publicly disclose material outage, a threshold for gas outages should be determined.

To finish we consider as important to establish adequate supervision and control in order to ensure that transparency requirements are followed.