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Your ref. E10-GST-09-06
Your letter
Our ref.
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Swindon, 08/10/2010

Dear Fay,

**EREG PUBLIC CONSULTATION OF CAPACITY ALLOCATION
MECHANISMS AND CONGESTION MANAGEMENT PROCEDURES FOR
EFFECTIVE ACCESS TO STORAGE AND PROPOSALS FOR THE
AMENDMENT OF THE GGPSSO**

RWE Supply & Trading (RWEST) welcomes the opportunity to participate in this public consultation and bases its response largely on that of Eurogas, which we fully support. The goal of the consultation is to propose amendments to the Guidelines on Good Practice for Storage System Operators, on the basis of the results of surveys conducted by EREG in 2009 and of new legislative measures contained in the "Third Energy Package".

Notwithstanding the right of the Member States in the current legislation to choose between negotiated or regulated third party storage access, both regimes must be equal in terms of non-discrimination, transparency and competition. In particular, transparency of information is crucial for sound decision making by storage users, as well as for investment decisions for new storage facilities.

These principles are already laid down in the Directive 2009/73/EC and Regulation 715/2009 as well as in the current EREG Guidelines on Good Practice for Storage System Operators, all of which RWEST supports.

RWEST also supports market based principles such as trading on exchanges. There should not be disproportionate regulation that can lead to excessive costs without achieving the ultimate goal of a competitive European market.

RWEST would like to point out that in some markets the picture has changed significantly regarding flexibility tools in recent years in a positive direction, for example significant storage capacity has been built (and additional storage capacity is underway).

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THE ENERGY TO LEAD

Often problems with lack of storage access have been caused by insufficient transmission capacity and RWEST acknowledges ERGEG's initiatives on this topic (Transmission Network Capacity Allocation Mechanisms/Congestion Management Procedures and harmonisation of balancing rules). In recent years, this has already led to a certain degree of integration of national markets with wider regional markets.

RWEST emphasises that investments in storage facilities must be supported by means of a stable and predictable regulatory environment.

Please find below our response to the questions raised in the consultation. We would also like to point out that in a number of cases we still find the drafting of the proposed amendments to the guidelines confusing and ambiguous. This could lead to problems in future as SSOs will be expected to implement them consistently throughout the EU.

Comments to the questions

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

RWEST agrees with ERGEG that auctions are the preferred tool when capacity availability is scarce and the market is sufficiently competitive. An Open Subscription Window (OSW) enables the SSO to collect requests for storage capacity over a pre-defined period of time. On determining that there is a lack of capacity the SSO will then conduct an auction. Therefore RWEST considers auctions as the most propitious allocation tool for those markets where there is a scarcity of storage capacity, as they are non-discriminatory and provide every market player an opportunity to acquire available storage capacity.

As described in the consultation document, there are presently several capacity allocation methods that have advantages and disadvantages in their own right and in relation to the development of an EU electricity and gas market.

RWEST recognizes that allocation methods other than auctions are currently in place and that these may currently address the needs in some Member States bearing in mind the state of market development state and the choice given by the Legislation as it exists today.

The previous consultation documents revealed that it will be difficult to achieve harmonization of storage products and services throughout the European gas market (i.e. similar standard storage services and capacity allocation procedures, similar time horizons of allocation processes and contracts). Thus whilst products will inevitably differ across Europe for some time to come based on the type of storage and market characteristics, the continued drive by ERGEG to allocate storage capacity consistently and in accordance with market principles is very much welcomed.

RWEST believes that a certain degree of harmonisation among storage services in Europe (e.g. offering injection, withdrawal and space as a bundled unit and

separately where available) would contribute to enhanced market liquidity and competition in the European gas market.

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

Greater clarity of information on procedures, allocation timetables, technical characteristics and contracts should be made easily and clearly available on the internet, in the national language as well as in English. Ongoing communication regarding storage operation should also be in English as well as in the national language.

In order to provide transparency, each SSO should display to the market the following information in addition to the information requirements detailed in the "Third Energy Package":

- a) Available storage capacity information out to 10 storage years ahead; daily max technically available capacity; daily commercially available capacity (firm and interruptible); daily booked capacity (firm and interruptible)
- b) Max daily injection and withdrawal rates
- c) In aggregated form daily flow levels (in/ and out) published after the day
- d) Planned maintenance as far ahead as known by the SSO
- e) Appropriate and timely notification of unplanned outages (affecting injection and withdrawal rates)
- f) Nomination lead times
- g) Ancillary services offered
- h) Causes for FM

Publication of one or more of the above elements should not lead to disclosure of legitimate business secrets and commercially sensitive information and restrictions/exemptions on disclosure should mirror the provisions of the "Third Energy package".

(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?

Unlike transmission capacity at interconnection points, where capacity is procured to meet the requirements of end user customers (whose demand may vary significantly between peak and off-peak periods) and supply contracts which may include minimum and maximum take requirements, storage capacity is often acquired purely for the option value it provides (at least by trading companies).

RWEST recommends that ERGEG should exercise far more caution when considering UIOLI in the context of storage capacity compared to transmission capacity at interconnection points. Implementation of similar UIOLI provisions for both products simply for the sake of consistency risks undermining the value of storage assets and creating market distortion.

There may be occasions where congestion management measures are appropriate for storage capacity, for example when capacity is held by an incumbent under a long term agreement concluded before competition was in place and the incumbent had demonstrably failed to offer that capacity to other parties or exercise its rights in an economic and efficient manner. However a blanket approach applied to all EU storage capacity is inappropriate and we think ERGEG should undertake more in-depth analysis on this topic before forming any conclusions on how UIOLI should be designed. Generally we are also in favour of a Use-It-Or-Sell-It-principle rather than UIOLI.

- (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?**

Of foremost importance is to create a level playing field in the primary market first, i.e. standardized products, allocation mechanisms/timescales and storage years. Any harmonisation on the primary market will eventually entail similar harmonisations on the secondary market and facilitate secondary trading. The focus should be on the standardization of products first to ensure they can contribute to meet the balancing requirements of TSOs and help to efficiently match supply and demand. SSOs should consult with the market on offering standardised products, allocation mechanisms/timescales and storage years.

RWEST agrees with ERGEG that it may be possible to stimulate secondary marketing through the use of platforms for storage capacity with harmonized terms and conditions, along the lines of the store-x platform.

- (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?**

Although the question is rather unclear, market-based prices, such as auctions, provide signals for investment in the enhancement of existing facilities or in new storage facilities. To the extent that storage prices are not regulated a storage facility must first have been judged as not being an essential facility, or the market must have been sufficiently competitive to warrant negotiated third party access,

in which case it should be left to the discretion of the SSO what products, prices and contracts to offer.

Long term storage contracts should remain an option not only from a security of supply point of view but also as they provide stable investment conditions, provided that storage is allocated efficiently by way of a market mechanism.

RWEST supports a robust and well functioning market which will facilitate a competitive delivery of gas to the end customer.

(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 general the product design should be left to the SSO, despite the fact that combined products may be an advantage to the shipper who then only has to deal with the storage operator instead of approaching SSO as well as TSO. It should be up to the SSO to offer such combined products if there is demand for them but without any obligation.

(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?

Primary capacity holders have commercial incentives to offer unused capacity on the secondary market, to the extent this does not destroy option value, and the extent to which unused capacity exists will be visible from the information published by SSOs. Shippers should be entitled to offer their unused capacity on the secondary market bilaterally, or by means of storage capacity platforms (see question number 4). The development of secondary markets could be particularly beneficial where storage is the main source of flexibility to balance the system. Where the shipper fails to offer unused capacity to other parties and to exercise its rights in an economic and efficient manner UIOLI may be appropriate, subject to further investigation on the suitable principles.

(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?

If requested by the market combined cross-border transport-storage products may help in moving towards a common European gas market and improving operational efficiency by using storage in one Member State to supply gas in a neighbouring Member State. However, we see combining transport and storage capacity/products as being subsidiary to the principle of bundling/combining transmission entry/exit capacity between market areas and Member States and believe that further consideration needs to be given to the tariff implications associated with such a measure.

(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?

RWEST considers that interruptible storage capacities could facilitate allocation and congestion management procedures.

(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?

According to legislation strategic reserves, as well as PSOs, are matters for individual Member State decision making. RWEST does not want to see National Regulatory Authorities intervening to release gas from strategic storage when the market is tight but no emergency situation prevails as this destroys incentives for commercial investment and could lead to moral hazard. RWEST strongly believes that as gas market competition develops throughout Europe and greater harmonization and interconnection takes place between Member States and market areas the market can be relied upon to bear responsibility for security of supply and the perceived need for strategic storage will diminish rapidly.

(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?

Despite LNG stored at LNG Importation Facilities being covered by the Third Package we do not believe it is appropriate to treat this in the same manner as gas stored in storage facilities as regards CAM and CMP. LNG storage is sized and built to accommodate efficient flows of gas to the transmission system in light of the characteristics of the LNG Importation Facility (e.g. discharge rates, period between berthing slots, gas processing requirements etc). Use of this LNG storage capacity is entirely related to a party's use of its primary LNG import capacity and we see no merit in extending CAM/CMP provisions to cover this capacity, or any obvious signs of problems existing in this area.

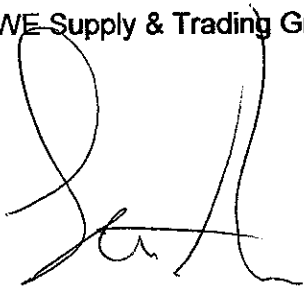
(10) To what extent would you agree NRAs should be endowed with additional competences in developing CAM and CMP?

RWEST is of the opinion that it is premature to consider additional NRAs competences.

Please do not hesitate to contact us if you wish to discuss our comments in more detail.

Yours sincerely,

RWE Supply & Trading GmbH

A handwritten signature in black ink, appearing to be 'S. Rose', written in a cursive style.

Steve Rose
Head of Gas Market Design

A handwritten signature in black ink, appearing to be 'R. Presse', written in a cursive style.

Ralf Presse
Head of Gas Regulation