

Position Paper

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

7 October 2010

General Remarks

The German Association of Energy and Water Industries (BDEW) represents 1,800 members of the electricity, gas and water industry. In the energy sector, we represent companies active in generation, trading, transmission, distribution and retail.

We welcome the opportunity to comment on the ERGEG Consultation Paper “ERGEG’s Assessment of Capacity and Allocation Mechanisms and Congestion Management Procedures for effective Access to Storage and Proposals for the Amendment of the GGPSSO”.

Introduction

Before we explain our view on the questions raised in the consultation paper, we would like to make some general remarks about the issues addressed in the paper, the principle scope of the consultation document as well as about the specifics of the German storage market.

In general, we support measures which are market based and ensure a level playing field for all market players, but we do not fully agree with some parts of the proposal as they are far too prescriptive (e.g. opportunities for standardization are limited according to the specific nature of storage driven by geology, also, in general, product regulation is an undue regulatory burden).

BDEW believes that the German storage market continues to develop well under the current GGPSSO and the nTPA-regime applied. Since implementation of the current GGPSSO by the SSOs in Germany, a strong competition “storage vs storage” and “storage vs the flexibility market” has occurred. Cross-border trading of flexible supply as well as cross-border storage usage is already a fact. To the alerted eye it will become apparent that the German storage market is more and more liquid with free capacities being offered increasingly. Store-x as a well-known secondary trading platform for storage capacities provides both transparency and non-discriminatory procedures for the secondary market and easy access placed at the disposal of all market participants.

Despite this, BDEW believes that improvements still can be made to achieve a level playing field on EU-level. This improvement should aim at achieving free access to storage in all EU member states and at harmonizing capacity allocation methods and congestion management procedures across the EU. However, a standardization of products is not necessary, as this harms effective usage of storages and leaves the markets less opportunities to serve for individual needs.

Any assessment of appropriate capacity allocation mechanisms (CAM) and congestion management procedures (CMP) should consider the effectiveness of existing TPA, UIOLI and flexibility instruments within a member state.

In the following section, we will present our view about the questions raised by ERGEG in the consultation paper:

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

BDEW in general shares the view of ERGEG that auctions may be a good allocation mechanism when capacity is scarce. Contrary to ERGEG's assessment BDEW is convinced that straight forward/FCFS¹ is a non-discriminatory allocation process if applied in the absence of congestion. In other words: FCFS shall be the standard allocation method if no congestion occurs. Only if limited capacity is available and no other means of satisfying capacity requests are realistic auctions may be a good alternative to allocate capacities without discriminating market participants.

However, attention must be paid when designing auction terms to avoid unintended adverse effects. 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?

Concerning CAM, we support ERGEG's proposal 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. SSOs should make sure that contractual and procedural information are published in due time to ensure a sufficient handling time for market participants to familiarize with the services and procedures. Depending on the design of the auctions, it could be advisable to limit the publication of results to information on capacity sold, as information on bidden tariffs may foster strategic misbehaviour and thus may have a negative impact on fair allocation.

Concerning CMP, we regard Article 19.4 of Regulation (EC) No 715/2009 as comprehensive enough to provide all necessary information to potential buyers of interruptible products. We clearly oppose ERGEG's proposal on the publication of almost real-time data to forecast the availability of interruptible products. The overall storage utilization is the sum of storage customers' individual storage use. BDEW is convinced that SSOs are not able to predict a sound storage utilization rate. SSOs do not have information on storage customers' individual flexibility sources, contractual obligations and other potential parameters that define the individual storage use. Therefore, any transparency requirements on the forecast of storage utilization can only be a task of customers.

(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?

¹ allocation method „straight forward / FCFS“ are expected to be non-discriminatory and transparent if correctly applied with predefined procedures

We generally support initiatives to maximize the utilization of existing capacity. However, these initiatives should not limit holders of firm capacity in their ability to make reasonable use of their contractual flexibilities.

In this context, BDEW considers it very difficult to design and implement an adequate UIOLI mechanism given the nature of gas storage and the role it plays in securing gas supplies. The definition of “non used” capacity is crucial and must take into account specific and local constraints as e.g. non usage of capacity by shippers may not be a result of capacity hoarding but rather a consequence of market, security of supply and/or climatic conditions. For example, storage capacities are amongst others used for flexible supply e.g. when there is unexpected peak gas demand. Furthermore, the use of storage capacity highly depends on market and/or climate conditions e.g. where smaller withdrawal rates could be explained by warmer temperatures during winter. Moreover, shippers may book some storage capacities in order to respect obligations of security of supply, either imposed by national authorities or according to contractual liability, and these capacities will only be used in rare occasions (default of a long term supplier for example).

Therefore, BDEW would recommend that any UIOLI on a firm basis such as the proposal under point 4.2.f) - to sell back capacity to SSO - should be applied only in conjunction with a concrete shipper request for storage capacity, provided the consent of an interested shipper is required and with enough advance notice. If SSOs have an obligation to buy-back sold capacity surrendered by shippers, in order to manage a constraint, this may lead to a general practice of overbooking storage capacity in a speculative manner, again providing a disincentive to primary optimisation of the system.

Besides, BDEW is in favour of short-term UIOLI but only on an interruptible basis; shippers owning firm capacities must keep the right to re-nominate on an intra-day basis. In accordance with Article 17.3 of Regulation (EC) No 715/2009 SSOs are anyhow obliged to offer unused capacity on at least a day-ahead and interruptible basis which we deem to be sufficient

(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?

In our view, one possibility to simplify secondary market trading could be the use of a single country wide or even European wide platform such as store-x. This facilitates market observations, leaves transparency to the market and simplifies access for all market participants.

Further standard provisions for secondary market trading might be helpful (e.g. the availability of standard contracts or minimum arrangements regarding processes). But within these minimum standards any standardization of storage products should not be applied, as on the one hand this would be in contrast to the variety of market needs and solutions and, in addition, unfeasible due to given legal, geological and physical constraints.

(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?

BDEW is convinced that pricing strategies have to take security of supply issues into account as well as to ensure non-discriminatory access to storage facilities. The principal implementation of the pay-as-used concept will achieve the opposite as it cannot ensure a certain stream of income and thus negatively impacts the willingness to invest in storage facilities. Furthermore, used as a long-term-pricing strategy, “pay-as-used” will encourage hoarding rather than discourage it. Therefore, we promote long-term pricing strategies that ensure a certain stream of income and enable SSOs to plan thoroughly. Such strategies should be subject to SSOs decision.

However, we appreciate the concepts’ potential to contribute to the solution of contractual congestion. Used as a pricing strategy for interruptible “Day-Ahead”- capacity it has the ability to enhance the efficient use of storage.

(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 may be useful and will emerge if possible and required by system users in a specific market. Storage and transport system operators already co-operate and communicate in a close manner and some markets already provide combined products.

Therefore any combined product offer should merely take place on a voluntary basis and hence be left to the market.

(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?

An effective liquid market is a prerequisite for secondary trading: (sufficient alternative flexibility instruments in the market, e.g. non-discriminatory TPA of production/LNG storages, introduction of liquid day-ahead and intraday markets, enhancement of interconnection capacity and storage capacity is not the single and scarce source of flexibility).

The 3rd Energy Package already requires to sell all unused capacity day-ahead at least on an interruptible basis.

See Question 4: The activities on the secondary market would be stimulated if simplified access to a common internet platform is available to sell and buy the capacity in an easy and effective way.

(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?

BDEW principally considers combined products of storage and transport capacities as a useful service as it simplifies the booking procedures.

However, ERGEG should avoid any specification on potential products as we are confident that respective products will emerge by market demand.

Furthermore, we are deeply concerned that ERGEG's approach may lead to a transfer of the marketing risk of transport capacities from TSOs to SSOs. As a consequence BDEW promotes that the decision to offer combined products should be in the sole discretion of the SSO and its respective partners.

(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?

Generally, BDEW highly appreciates ERGEG's efforts to enhance capacity allocation and to solve problems of contractual congestion management. Indeed some of the proposals contain appealing approaches and may be able to optimize CAM and CMP. However, various proposals are carrying serious drawbacks and have to be carefully considered.

In the following we provide a short assessment of ERGEG's proposals on the amendments of the existing GGPSSOs:

4.1 d) As outlined already in our answers to question 8, ERGEG's accompanying comments on the proposal raise our concerns that a combined offer of storage and transport products may lead to an increased financial risk for SSOs as the organization and execution of such a product offer may require the purchase of transport capacities by SSO and thus a transfer of marketing risk from TSO to SSO. Again, we point out that the offer of combined products should be in the sole discretion of the SSO.

4.1 g) Any evolution of the regulatory framework should not be detrimental to any market participant involved. There will only be a level playing field with fair CAM/CMP principles for all market participants if rules are harmonized across European borders without any privileges or exceptions due to other legal or regulatory requirements in each of the member states. BDEW therefore proposes to delete the parenthesis "and unless national legislation stipulates differently" without replacement.

4.2 f) We clearly oppose ERGEG's proposal as the underlying restriction of nomination rights will definitely limit customers' ability to react on a short-term basis as it cuts flexibility. As outlined in our answer to question two, short re-nomination deadlines are essential for storage customers having a constricted flexibility portfolio. Furthermore, the intended 'buyback'-obligation increases SSOs financial risk, as a resale is not guaranteed. In fact, such an obligation with an insurance-character may be used by storage customers to reduce their pay-

ment obligations. SSOs would then be forced to charge a risk premium to ensure storage profitability.

(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?

BDEW strongly advocates that the use of storage capacities for e.g. strategic storage or other reserved storage should clearly be separated from the commercial storage usage, as partial use of reserved capacities within the commercial market would definitely have an adverse impact on the incentives to invest in commercial storage and would most likely lead to a distortion of competition as well as a worsening of security of supply.

(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?

not applicable

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

BDEW is convinced that the CAMs and CMPs have to be defined in consideration of the specific local conditions of each national market. We emphasize that competitiveness on the German storage market has significantly increased since the beginning of the market area consolidation – not at least reflected by a rising number of secondary trades and an increased use of capacity auctions. With regulation (EC) No 715/2009 a very well defined set of rules becomes effective in March 2011. Prior to establishing new, - even if voluntary - guidelines, the effects of the regulation should be examined first.

We therefore oppose ERGEGs proposal to endow NRAs with competences to avoid over-regulation which may be counterproductive for the development of competition and efficient markets.

Contact:

John Usemann
Energy Network and Regulation
Fon +49 30 300199-1131
Mail john.usemann@bdew.de

Katharina Stecker
Energy Trading
Fon +49 30 300199-1562
Mail katharina.stecker@bdew.de