



6 October 2010

GSE response to:

10GSE075

EREG Public Consultation Paper

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28 July 2010

Assessment of Capacity Allocation Mechanisms and Congestion Management Procedures for effective Access to Storage and Proposals for the Amendment of the GGSSO

Introduction

GSE welcomes the opportunity to take part in ERGEG's public consultation related to its proposal to amend CAM/CMP provisions of the Guidelines for Good TPA Practice for Storage System Operators (GGSSO) in view of the results of ERGEG's 2009 Status Review on Capacity Allocation Management and Congestion Management Procedures for Storage as well as the new provisions concerning CAM/CMP contained in the 3rd Energy Package.

GSE would like to reiterate the main principles on which any CAM/CMP should be based as specified in GSE's Basic Criteria for Capacity Allocation Mechanisms and Congestion Management Procedures¹.

- Capacity Allocation Mechanisms should be non-discriminatory, transparent, provide incentives for investment, discourage capacity hoarding and maximize the use of available capacity.
- Congestion Management Procedures should in addition to the above be market-based and maximize the use of available capacity, offering unused capacity at least on an interruptible basis or on the secondary market.

Before answering the questions posed by ERGEG, a number of general observations regarding the public consultation document may be useful:

- GSE has recently conducted its second CAM/CMP survey among its members and the results point to a significant improvement in the practices of SSOs across Europe. The use of market-based allocation methods is on the rise, secondary market trading with capacity is now

¹ GSE paper on Basic Criteria for Capacity Allocation Mechanisms and Congestion Management Procedures (published 6 February 2009, available at http://www.gie.eu.com/adminmod/show.asp?wat=GSE_CAM_CMP_Basic_Criteria_Paper_Final.pdf)

available to virtually all storage users and transparency has also improved. This should be taken into account by ERGEG when drafting the amendment. Detailed results of the survey are available on GSE's website.

- GSE considers it premature and overly skeptical for ERGEG to state that the 3rd Energy Package rules will not be sufficient to tackle problems identified by ERGEG in 2008 and 2009 when those rules have not yet entered into force. GSE deems it necessary for the 3rd Energy Package to be implemented and complied with before making conclusions regarding its effectiveness. It is up to the Commission and the Parliament to determine whether this is the case and if so, to adopt any necessary measures. ERGEG is an advisory body of the Commission. Policy-making role is reserved for Member States and bodies of the EU.
- As regards secondary markets with storage capacity, it should be noted that secondary markets with storage capacity can only work if storage users offer their unused capacity to others. SSOs can help to facilitate conditions and procedures for trade in secondary capacity that are straightforward and conducive for trading.

Response to questions:

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

GSE believes that while auctions are a good market-based capacity allocation method, there are other effective allocation methods that offer sufficient transparency to the market which may, in certain circumstances, provide the same results as auctions. For example, a call for tenders, a fair pro-rata or first-come first-served system can work to full satisfaction of all market participants depending on the market situation.

The Third Package – more in particular the Regulation – has made explicit that CAMs should be transparent, objective and non-discriminatory. These guiding principles have to be applied by SSOs. SSOs should be free to opt for a CAM that they consider to be the most suitable mechanism, also 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?

Applicable terms and conditions and in addition information regarding available capacities, contact details, clear information on the applied mechanisms.

Minimum transparency requirements for SSOs are defined in Regulation (EC) No. 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No. 1775/2005. SSOs should also publish basic information on the allocation and congestions methods and procedures they use including the steps necessary to request storage capacity or trade capacity on the secondary market.

(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 general, GSE is of the opinion that UIOLI must be clearly defined so that all storage users know how it may be applied and that re-nomination rights of storage customers should not be restricted. One of the most important functions and values of storage lies exactly in the option to use it or not. If this option is restricted by limiting or doing away with re-nomination rights, the value of storage decreases significantly.

Storage has three components: injection and withdrawal capacity and working gas volume. If one is missing storage will not work. UIOLI should take this into account. If a user has gas in storage, there may be good reasons not to nominate withdrawal. For instance the temperature could be too high. It is difficult to see how someone else (with no gas in storage) could make use of the withdrawal capacity that is not nominated. According to re-nomination rights of storage users UIOLI can only generate free capacities on a short term and interruptible basis. Thus UIOLI can only be open for existing customers.

(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?

Standardisation could be useful, for instance in the field of topics to be covered in the contracts (e.g. General Terms and Conditions of storage contract and of secondary market published by the SSO) as well as regarding energy units used by SSOs or the definition of the gas day and the storage year (provided they are consistent with the TSOs and DSOs definitions). Further opportunities for standardisation will be limited: storages all have their own characteristics due to - for instance- the geological situation. This limits the possibilities for standardisation of services. It is necessary to take into consideration that the standardization is only one of the drivers for the secondary market, but not the only one. The main driver for secondary markets will not be standardization but the availability of capacity and the prevailing commercial conditions. The creation of liquid secondary market is a process.

(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 negotiated TPA, storage prices should be set by the market. In general, however, all pricing schemes should be attractive for users, but should on the other hand enable investors to invest in storage capacities. Pay-as-used implies that in case a customer has a contract but does not use capacity, the customer does not have to pay for capacity. As concerns firm capacity this system would motivate storage users to hoard capacity or result in restitution of capacity, which in the end would create a risk on the SSO side thus decrease the incentives to invest to the SSO.

Also, this would have a negative impact on the perspective of financiers and investors as long term stable cash flows are a prerequisite for capital intensive investments like storages. It is therefore required that the investor has upfront certainty about its revenues.

SSOs should facilitate and incentivise customers as much as possible to trade unused capacities and pay-as-used pricing mechanisms in the case of firm capacity would go directly against it as customers would lack motivation to trade capacity for which they are not paying. For non regulated facilities, negotiated terms and conditions – established by SSO and user together – are the best guarantee for a sustainable relationship between all parties involved. Pay-as-used is not the best basis for new investments in storage capacity because it does not provide predictable return on investment to SSOs.

However, pay-as-used may be useful when selling interruptible capacity, in particular where the interruptible capacity is sold on a day-ahead basis and results from non nomination of firm capacity.

(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 could be useful, and TSOs and SSOs should consider the development of joint services where possible. This should be on a voluntary basis.

(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 organization representing the interest of SSOs GSE can only give an SSO's view on the behaviour of users and the incentives that could play a role to influence users' behaviour. GSE believes that it is the market itself that would provides incentives for users to trade on secondary markets. SSOs should endeavor to make it as easy as possible for storage users to trade storage capacity.

(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?

The offer of combined products could be useful. However these GGPSSOs aim at SSOs and are not directed at TSOs. Regarding TSOs the focus is on the development of Framework Guidelines for CAM and CMPs and not on development of joined services with SSOs. The idea of combined services is an idea that will emerge if possible and required by the users in a specific market. It should also be noted that available transmission capacity is a prerequisite for offering cross-border storage products.

(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?

A well functioning market in storage capacity is also dependent on the availability of new storage capacity. On the one hand such developments are limited to the geological situation in a country; on

the other hand the legal and regulatory framework should incentivize new investments. The current proposals to amend the GGPSSOs do not take into account the need for long-term stable cash flows and the role of investors/financiers. Within the context of the Third Package, investors/financiers are allowed to choose the most appropriate CAM/CMP as long as the mechanism or principle chosen complies with the basic principles of transparency, objectivity and non-discrimination. In the current proposals for amendment of the GGPSSOs ERGEG expresses a preference for one particular CAM – auctions – and also suggests pricing schemes such as pay-as-used and buy back arrangements that do not take into account investors' needs and would make the storage market less interesting for investors. As stated above in (1), GSE believes that different market allocation methods are suitable for different market situations. One method should not be preferred at the expense of others as long as they fulfill certain basic principles. Moreover GSE states that “pay as used” for firm capacity does not fit the needs of both, storage users and investors.

(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?

If there is a public service obligation limited to extreme weather conditions like extreme winter conditions, such PSOs could be limited to a particular time of the year: e.g. in the summer season the storage could then be used for other purposes than the PSO. However, such a limited use might not appeal to the interest of the users of storage capacity.

The potential secondary sale of capacities, which are used for strategic stockpiling must not distort the competition on the storage 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-day experience?

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

GSE believes that any discussion about granting additional powers to NRAs is premature pending the full implementation of the 3rd Energy Package. In a negotiated environment, it should be left to SSOs to design, in cooperation with storage users, such CAM & CMP aspects not covered by Reg (EC) 715/2009 (Article 17) that are best-suited for the given market. In a regulated environment, the decision to regulate further aspects should be left to Member States.



6 October 2010

Comments on text proposal

GSE does not consider further amendments to the GGPSSO as necessary as they were the result of a voluntary agreement of the industry and the major provisions have already been incorporated into the Reg. EC 715/2009. The following comments are for clarification purpose only.

ref	Current text	Proposed change (new text bold)	Justification
P 16 title	5. Proposals for limited amendment of the GGPSSO	5. Proposals for limited amendment of the GGPSSO	The word limited does not do reflect that section 4.2 of the GGPSSO is expanded from 3 to 10 sub items.
P 19 title	5.3. Proposed limited enhancement	5.3. Proposed limited enhancement	The word limited does not do reflect that section 4.2 of the GGPSSO is expanded from 3 to 10 sub items.
4.1.c	c. ensure compatibility (i.e. regarding timing / lead time) with the transport capacity allocation mechanism(s) of the connected TSO(s) and the organization of the gas trading market(s). Consequently, this also requires to align at least a basic set of storage products (with regards to duration and lead time for regular allocation) to transport products.	c. facilitate compatibility (i.e. regarding timing / lead time) with the transport capacity allocation mechanism(s) of the connected TSO(s) and the organization of the gas trading market(s) if required by storage users. Consequently, this also requires to align at least a basic set of storage products (with regards to duration and lead time for regular allocation) to transport products, and vice versa.	This can only work if the TSO is willing to cooperate. Furthermore, this would make these GGPSSO also applicable for TSOs. That is outside the scope of this document.
4.1.d	d. allow for and endorse the development and offer of combined storage and respective transport capacities as one product in order to allow for offering such storage	d. allow for and endorse the development and offer of combined storage and respective transport capacities as one product in order to allow for offering such storage	Proposal to delete 4.1.d. This should not be an obligation. Furthermore, this would make these GGPSSO also applicable for TSOs. That is outside the

	services at the virtual hub.	services at the virtual hub.	scope of this document.
4.1.e	Take into account the needs of balancing markets		It is not clear what this implies?
4.1.f	start with an open subscription period (OSP). At least during the OSP, SSO's shall provide all relevant information including specific storage product descriptions, contract durations, (reserve) prices and the conditions for the respective CAM(s) to be applied according to the results of the OSP to the potential customers. The timing of the OSP should be fixed and aligned to the duration of the respective storage contracts.	start with an open subscription period (OSP). At least during the OSP, SSO's shall provide all relevant information including specific storage product descriptions, contract durations, (reserve) prices and the conditions for the respective CAM(s) to be applied according to the results of the OSP to the potential customers. The timing of the OSP should be fixed and aligned to the duration of the respective storage contracts.	The last sentence would remove the storage operators ability to react to market movements.
4.1.g	g. with respect to the applicable mechanism be determined by the results of the OSP: 1. If demand exceeds supply - and unless national legislation stipulates differently - auctions should be implemented for allocation of all of the capacity offered with this storage product or service in the preceding OSP. 2. If supply exceeds or is equal to demand, allocation is straightforward.	g. with respect to the applicable mechanism be determined by the results of the OSP: 1. If demand exceeds supply - and unless national legislation stipulates differently - auctions should be implemented for allocation of all of the capacity offered with this storage product or service in the preceding OSP. 2. If supply exceeds or is equal to demand, allocation is straightforward.	SSO should be allowed to choose a fair capacity allocation method complying with the criteria of objectivity, transparency and non-discrimination that suits the business. Auctions should not be made obligatory.
4.1.h	h. be subject to review and ex-ante definition / approval by national regulatory authorities, if deemed necessary [by them].	h. be subject to review and ex-ante definition / approval by national regulatory authorities, if deemed necessary [by them].	This article should be removed as ERGEG does not have the authority to give additional powers to NRA's. In case a Member State has opted for nTPA instead of or besides rTPA it is not acceptable to have regulatory involvement in terms and conditions of storages.
4.2.d	d. SSOs should organise the implementation	SSOs should organise the implementation and	SSOs should make every reasonable effort to

	<p>and standardisation of secondary markets for storage capacity. SSOs will provide a web-based platform that enables primary customers (without restraining the possibility for bilateral agreements⁸) to sell unused capacity on the secondary market. It should at least enable primary customers to make an anonymous bid (both bundled and unbundled storage capacity) that are visible to third parties. To foster standardisation, published master agreements templates are used and tradable capacity products are defined in alignment with primary capacity products. Furthermore a lead time for the implementation / acceptance / registration of secondary trades is published. A market mechanism should be in place that reflects the value of the offered products so as to stimulate the offering of unused capacity. SSOs connected to the same balancing zones or market areas should cooperate in the implementation and consolidation of secondary markets to improve liquidity. SSOs shall keep a record of all transactions on the secondary market, including the transfer price. The collected information shall be communicated to the NRA on a regular basis.</p>	<p>standardisation of secondary markets for storage capacity. SSOs will provide a web-based platform that enables primary customers (without restraining the possibility for bilateral agreements⁸) to sell unused capacity on the secondary market. It should at least enable primary customers to make an anonymous bid (both bundled and unbundled storage capacity) that are visible to third parties. To foster standardisation, published master agreements templates are used and tradable capacity products are defined in alignment with primary capacity products. Furthermore a lead time for the implementation / acceptance / registration of secondary trades is published. A market mechanism should be in place that reflects the value of the offered products so as to stimulate the offering of unused capacity. SSOs connected to the same balancing zones or market areas should cooperate in the implementation and consolidation of secondary markets to improve liquidity. SSOs shall keep a record of all transactions on the secondary market notified to them, including the transfer price. The collected information shall be communicated to the NRA on a regular basis when they ask for it specifically.</p>	<p>facilitate secondary trading but they should not “implement” secondary markets let alone provide market pricing mechanisms – pricing of secondary capacity is solely in the hands of storage users. Also, SSOs can only report on transactions reported to them provided the relevant storage users agree with such publication.</p>
4.2.f	<p>f. A primary customer makes, at best effort, a timely nomination to the SSO on the capacity that will be used. In case a primary customer, holding a significant part of capacity, has not</p>	<p>f. A primary customer makes, at best effort, a timely nomination to the SSO on the capacity that will be used. In case a primary customer, holding a significant part of capacity, has not</p>	<p>SSOs do not want to buy back capacity from users: that would give shippers an ‘un-contractual’ possibility to exit existing contracts. Such a possibility would have a</p>

	made a nomination on a specified date, the involved SSO will (since the Regulation 715/2009 says that the SSO must offer unused capacity at least on a dayahead and interruptible basis) ask this primary customer to relinquish its renomination right by selling back capacity to the SSO and offer the unused capacity on the secondary market on firm basis or SSO will offer non-nominated capacity on interruptible basis.	made a nomination on a specified date, the involved SSO will (since the Regulation 715/2009 says that the SSO must offer unused capacity at least on a dayahead and interruptible basis) ask this primary customer to relinquish its renomination right by selling back capacity to the SSO and offer the non-nominated unused capacity on the secondary market on firm basis or SSO will offer non-nominated capacity at least on interruptible basis.	negative effect on the stability of future cash flows and lead to a smaller appetite for investment.
4.2.g	g. Based on the received nominations and their own forecast, SSOs shall strive to maximise interruptible capacity products offer on a short-term basis, and in particular, on a daily basis (comment: the Regulation 715/2009 requires SSOs to offer unused capacity on at least a day-ahead and interruptible basis) by dynamically calculating available capacities taking into account actual temperatures, counter-flow nominations, any other information means available influencing capacity use.	g. Based on the received nominations and their own forecast, SSOs shall strive to maximise interruptible capacity products offer on a short-term basis, and in particular, on a daily basis (comment: the Regulation 715/2009 requires SSOs to offer unused capacity on at least a day-ahead and interruptible basis) by dynamically calculating available capacities taking into account actual temperatures, counter-flow nominations, any other information means available influencing capacity use.	Given the nature of storage services it is difficult to foresee how a user could make use of interruptible send out capacity if this user does not already have gas in the storage. Interruptible deals in either send-in, storage or send-out capacity is by its nature more a business for users amongst each other. Only in case storage users do not make use of their entire firm capacities could SSOs offer whole bundles (send-in, storage, send-out) on an interruptible basis. Unused firm capacity can be offered as interruptible bundles if not all firm injection and withdrawal capacity as well as WGV have been nominated for the same time period.
4.2.h	h. SSOs will offer a reasonable amount of interruptible capacity on a (short) term and interruptible basis and with a balanced mix of contract duration. Any unused capacity will be sold in both unbundled and bundled products. The design of products should be	h. SSOs will offer a reasonable amount of interruptible capacity on a (short) term and interruptible basis and with a balanced mix of contract duration. Any unused capacity may will be offered in both unbundled or and bundled products. The design of products	Please note that the selling of interruptible WGV (bundle) is very tricky if not impossible. The nature of storage services limits the possibilities to offer interruptible services, especially bundled services. Because of the right of renomination, the part of unused

	(cross- border) consulted with current and potential customers. Offered products should not be customized too much as to prevent “1 user only fit”.	should be (cross-border) consulted with current and potential customers. Offered products should not be customized too much as to prevent “1 user only fit”.	capacity that should be offered as interruptible could vary from one hour to another. Moreover, interruptible volume is often not an option when the stock level has reached a certain percentage. This should not limit the offering of injection and withdrawal capacity on interruptible basis.
4.2.i	i. Information on the amount of non-nominated storage capacity should be provided by the SSOs on a day-ahead basis and the already sold day-ahead interruptible products. Similar best effort should preferably apply to longer outlooks. The data should be published on a website in time series (both for unbundled and bundled services) preferably close to real-time. Also historical data on (not) booked capacity should be published as to make an estimate of the probability of interruption.		This point needs to be discussed in detail with storage users.
4.2.j	j. SSOs will take efforts to facilitate the transfer of working gas between a primary and secondary customer at the start and end of the duration of the interruptible or firm (bought at secondary market) contract. In case of a working gas transfer, the price should be market-based.	j. SSOs will take efforts to facilitate the procedure of transfer of working gas in storage between a primary and secondary customer at the start and end of the duration of the interruptible or firm (bought at secondary market) contract. In case of a working gas transfer, the price should be market-based.	Transfer price is a matter of the deal between users and not something SSOs can influence.
4.2.k	k. The price for interruptible capacity that a secondary customer should pay reflects the probability of interruption. Other pricing methods, incentivising active storage capacity		For pay-as-used, see GSE’s comment above in answer to question (5) of the consultation document.

	use – like ‘auctions’ and ‘pay as used’ - can be used if storage prices are not regulated.		
4.2.l	l. In case a storage facility has a high minimal flow and/or other technical constraints for relatively small users, SSOs will use reasonable endeavours to aggregate customers nominations and/or to administratively approach the largest user with request to flow gas to overcome the technical constraints of the storage.		
4.5	4.5 <u>new</u> : If, in spite of all measures aimed at <u>optimal capacity (re-)marketing and efficient utilisation</u> , capacity remains unused and if significant and prolonged contractual congestion occurs, the national regulatory authority <u>may define and introduce more detailed measures/provisions to effectively manage congestions, to ensure efficient capacity use in the above mentioned sense and to prevent capacity hoarding.</u>		<p>This article should not change and remain as in the 2005 version of the GGSSO.</p> <p>ERGEG does not have the authority to give additional powers to NRA's. (see also 4.1.h)</p>