

## **Conclusions of the**

### **7<sup>th</sup> meeting of the European Gas Regulatory Forum**

**Madrid, 24-25 September 2003**

#### I. General

1. Participants at the seventh meeting of the European Gas Regulatory Forum, the Commission, the representative of the Italian Presidency, Regulators, representatives of the EU/EEA Member States, industry and consumers, stressed the need for consolidating rapid progress in the context of the Madrid Forum on a broad range of issues relating to the creation and operation of a fully operational and integrated internal gas market. Representatives of the regulatory authorities and ministries responsible for gas sector policies of the accession and candidate countries participated in the meeting of the Madrid Forum with a view to assisting the countries in preparing for full participation in the internal gas market. Within the context of the EU-Russia energy dialogue, representatives of the government of the Russian Federation and OAO Gazprom also participated.
2. The Forum welcomed the work accomplished since the 6<sup>th</sup> meeting of the Madrid Forum on 30-31 October 2002 notably by the various Working Groups of representatives of the Commission, the Council of European Energy Regulators (CEER) and interested Member States and by the gas industry, in particular through GTE and EASEE-Gas. The Forum stressed the importance of rapid completion and implementation of this work in order to consolidate tangible progress.
3. Practical experience in market opening and achieving access to the European gas network since the entry into force of Directive 98/30/EC has revealed significant remaining obstacles for new market players in entering the market and for eligible customers really benefiting from competition in the internal gas market. There has been less progress for gas than for electricity since the Commission started its benchmarking exercise and benefits from market opening have been limited in several Member States, notwithstanding the fact that the electricity opening commenced earlier.

#### II. Revised version of Guidelines for Good Practice (GGP2)

4. In accordance with the conclusions of the 6<sup>th</sup> Forum, the Commission presented the second overview of compliance by individual TSOs with the Guidelines for Good Practice (1<sup>st</sup> version), as adopted by the 5<sup>th</sup> Forum.
5. The report highlighted the progress achieved over the last year by member companies of GTE, but also stated that one and a half year following the agreement on the Guidelines

for Good Practice, there is in a significant number of cases still an important lack of compliance. In addition, it confirmed some of the findings of the 1<sup>st</sup> Compliance Report pointing out “the Guidelines as such are not sufficiently clearly defined e.g. in quantitative terms or detailed enough”.

6. The Forum took note of the immense work carried out in the framework of several working groups organised between the 6<sup>th</sup> and the 7<sup>th</sup> Madrid meeting with a view to agreeing on the revised Guidelines for Good Practice. All stakeholders involved in the Madrid process showed a huge interest in arriving at a revised version in line with the requirements of a competitive and well-functioning internal market for natural gas.
7. The Forum accepted a new set of Guidelines for Good TPA Practice for TSOs. The Forum noted that this is a significant step forward regarding the issues covered, where real progress has been made. However, further developments need to be made on a number of other important issues to create a real competitive gas market, which are not covered in the Guidelines or are covered in insufficient detail, notably storage, balancing, the calculation of available capacity, transparency and or use-it-or-lose-it rules. Special attention must be paid not to create disadvantages for newcomers, wholesalers and consumers wishing to change their supplier. CEFIC, IFIEC, EFET, GEODE and Eurelectric raised their concern regarding GTE’s unwillingness to publish daily maximum flow rates at relevant points, since these organisations deem it necessary in order to reliably detect capacity hoarding. The new version of the Guidelines is attached to these Conclusions.
8. EFET, Eurelectric, CEFIC, GEODE and IFIEC asked the GTE, the Commission and CEER to ensure proper implementation of the Guidelines with a view to guaranteeing the most possible level of compliance in the light of national and EU legislation.
9. The CEER and the Commission underlined in this respect the interaction between the new gas Directive and some of the provisions of the Guidelines for Good Practice. The Guidelines illustrate some of the practical steps to be taken as a result of the new Directive such as regulated tariffs for transmission, distribution and balancing, and the need for non-discriminatory approaches to such issues as use-it-or-lose-it rules and transparency. However, in their practical implementation by Regulators pursuant to their powers under the new Gas Directive, and in particular by TSOs, they will need to be further developed in each Member State. It is vital that all parties pay careful attention to the implementation of these principles in practice to ensure that they fully meet the requirements of the Directive, thus avoiding the need for any enforcement action by the Commission.
10. The Forum invited CEER to report at the next Forum how the Guidelines have been implemented as well as necessary accompanying measures decided at national level in practice in the various Member States in line with the requirements of the Gas Directive.
11. GTE stressed the need for a stable regulatory framework enabling and facilitating necessary investments in maintenance and expansion of the network in order to match supply and demand on the EU internal market for gas. GTE also stressed the need to rely on a stable and robust system providing the adequate services to network users at reasonable costs.

### III. Calculation of Available Capacities

12. The Forum took note of the GTE report on calculation of available capacities. Several members of the Forum made comments inviting GTE to further develop the description of how TSOs calculate the available capacity. The Forum invited GTE to present a new report to the next Forum.

### III. Access to storage

13. While the Guidelines for Good TPA Practice provide useful and necessary guidance for TSOs on how to shape access conditions to the networks operated by TSOs, the Forum stressed the need to ensure non-discriminatory and transparent access conditions to storage facilities in line with the provisions of the 2<sup>nd</sup> Internal Gas Market Directive. The Forum called on the Commission, CEER, GTE and Eurogas to take in close co-operation initiatives aiming at proper involvement of all relevant storage operators on the EU internal market for natural gas in the future work.
14. The Forum invited the Commission to organise – in close cooperation with CEER, GTE and Eurogas as well as other relevant organisations at national or Community level - before the end of the year a Specific Working Group with participation of national regulators, representatives of storage operators, as well as network users and representatives of Member States, in order to discuss non-discriminatory and transparent access conditions to storage facilities in line with the provisions of the 2<sup>nd</sup> Internal Gas Market Directive.
15. The Forum invited the Commission to present an inventory of the current state of play with respect to non-discriminatory and transparent access conditions to storage facilities to the next Forum. Based on the findings of this inventory as well as on the results of the work carried out in the framework of the Specific Working Group, the Commission in close cooperation with CEER, GTE, Eurogas, other relevant organisations at national or Community level and network users is invited to present a proposal on Guidelines for Good TPA Practice for Storage Operators with the objective of agreement to the next Forum.

### IV. Entry-Exit Systems

16. The Forum highlighted the importance of appropriate tariff and network access arrangements in support of a medium-term vision of liquid and competitive gas markets organised around a range of trading hubs. In that context, the Forum took note of the report on progress in implementing entry-exit systems. The Forum noted with satisfaction that a rising number of EU Member States have already implemented or are implementing an entry-exit tariff system entailing non-discriminatory access tariffs.

17. The Forum welcomed the presentations made by CEER on the entry-exit systems and hubs, and noted that the checklist on entry-exit systems provided a useful overview of the necessary objectives for entry-exit access arrangements both for tariff methodologies and capacity. The Commission and representatives of consumers considered that the road-map presented by CEER provides a workable basis on which such an approach should be implemented.
18. The Forum discussed the paper presented by GTE in relation to the potential shortcomings of entry-exit, including issues concerning congestion, multiple TSOs and transit as well as the possible remedies suggested by GTE.
19. The Commission, CEER and consumers noted that these concerns can be properly addressed under different tariff regimes and considered that given the current state of the single EU market for natural gas an entry-exit system had sufficient flexibility to reasonably overcome these concerns.
20. Representatives of the German Ministry for Economic and Employment provided an update to the Forum on developments in relation to future network access conditions in Germany. The Forum understood that the tariffs of a new network access system would not be based on a contractually agreed transportation path. The representatives of the German Ministry pointed out that there were a number of specificities in relation to Germany that a new system would need to address. The Forum welcomed the work undertaken by the Ministry, including in particular consideration of different models for a non/discriminatory and transparent tariff system as well as the introduction of an independent regulator pursuant to the new gas Directive.
21. The Forum noted that the proposals by EFET in relation to specific Member States such as Germany contained a number of important concepts, and the Commission, CEER, representatives of consumers and GEODE invited Member States concerned to cooperate with the CEER, Commission and Industry to further consider entry-exit based models with a view to implementing an appropriate model as soon as possible.
22. In view of the important role of the German market for the well functioning of the internal market for gas, which will increase following the forthcoming enlargement of the EU, the Forum encouraged and invited the relevant authorities/Member State in Germany to present progress achieved to the next Forum.
23. In relation to hubs, the Forum welcomed the paper by CEER highlighting the importance of trading hubs for the development of competition and liquid markets and invited it to continue the work in the area in the light of comments received during the Forum and to be finalised in writing.
24. The Forum underlined that work should now progress on ensuring that inter-TSO transactions are cost reflective and administratively simple and avoid pancaking. It invited the Commission in close collaboration with CEER, GTE and interested Member States to present a paper with possible proposals on this issue for the next Forum.
25. The Forum invited the CEER in collaboration with GTE to report at the next Forum on how its road map has been applied in each Member State during the period leading up to and following the date for the implementation of the gas Directive in each Member State.

## V. Interoperability

26. The Forum welcomed the important work undertaken by EASEE-Gas since the 6<sup>th</sup> meeting of the Madrid Forum on technical interoperability issues including the proposal on harmonisation of definitions and units of measurement to be applied within the European gas industry, and the promising progress on gas quality specifications and business rules, more particularly on the definition of the nomination cycle. The Forum agreed that this will contribute to creating a more efficient and effective European gas market.
27. The Forum took note of the progress presented by EASEE-gas on the Action Plan, the implementation of which EASEE-gas had accepted to facilitate at the 6<sup>th</sup> Madrid Forum. The Forum discussed and welcomed the revised Action Plan, set out in Annex 2. The Forum invited EASEE-Gas to report on progress at the next Forum meeting and more particularly, to make a formal recommendation on the issue related to Wobbe index, billing and calorific value for which action should be taken urgently in order to allow interoperability and the free circulation of goods.
28. The Forum pointed out that the commitment of all relevant market stakeholders is essential for EASEE-gas efforts to succeed. More particularly, direct and effective participation of end users, distribution network operators and retail suppliers is indispensable for future progress in the EASEE-gas working groups. The Forum strongly encouraged the professional organisations of end-users of natural gas at national and international level and their members, distribution network operators and retail suppliers to support and actively contribute to the work carried out by EASEE-gas and asked the authorities to take the necessary measures in order to make possible the implementation of the proposed harmonization and the interoperability.
29. The Forum welcomed the fact that GTE remains committed to present its view on LNG ship approval procedures at the next Forum.

## ANNEX 1

# **The Guidelines for Good TPA Practice**

**- revised version –**

## **Introduction**

The 5<sup>th</sup> meeting of the European Gas Regulatory Forum /the Madrid Forum) on 7-8 February 2002 adopted a set of Recommendations on Guidelines for Good Practice in relation to TPA Services, Tarification, Balancing etc. These recommendations aimed at (i) clarifying the roles and responsibilities of the main parties in gas transportation; (ii) ensuring the application of the principle of non-discrimination, (iii) facilitating cross-border trade and customer choice through competition in the internal market, and (iv) avoiding distortions of trade.

While the recommendations on Guidelines for Good Practice have not been legally binding, they have been intended to contribute in the short and medium term to achieving a fully operational internal market for gas. The Guidelines for Good Practice do not provide a static set of provisions, but need to be adjusted in line with the requirements of the above objective.

The Commission presented a first overview on the compliance with the Guidelines for Good Practice in October 2002. While the report demonstrated considerable progress in implementing the Guidelines, it also revealed a significant lack of compliance as well as uncertainty and differences in compliance. On this basis, the report recommended, in order to avoid ambiguity in the interpretation of the Guidelines for Good Practice and in order to ensure a level playing field and to raise standards at least to levels which are already industry practice in Europe when providing third party access to the gas system, that the Guidelines for Good Practice should be clarified and reinforced.

During November 2002 and September 2003, regulators, TSOs, network users and the Commission carried out intensive and extensive discussions on the revised version of the Guidelines. The outcome of these discussions is reflected in the text below.

## **Scope and Objectives of the Guidelines**

The Guidelines for Good Practice are forward looking. Implementation of a specific requirement of the Guidelines for Good Practice may not be required if in exceptional circumstances that specific requirement contravenes the respective national legislation.

The purpose of these GGP is to ensure that TSO aim to provide the quality of services needed by the network users and that the systems and processes promote sustainable development of competition in gas supply. An overriding principle is that systems and processes implemented by the TSO maintain the safe operation of the system, whilst facilitating the development of national and EU competition in gas supply. The GGP are applicable to Transmission as defined in the IGM Directive and to which Third Party Access is required. They are a set of basics principles agreed in the Madrid Forum, aiming at the enhanced and efficient functioning of the Internal Gas Market. The GGP may be considered a helpful instrument in

supporting the development of a sustainable internal gas market and furthering efficient operation and use of the interconnected EU gas transmission system.

## **2. Main roles and responsibilities of TSOs and network users**

### **2.1.1.**

TSOs, be they separate entities or unbundled transmission functions of integrated companies means a natural or legal person who carries out the function of transmission and is responsible for operating, ensuring the maintenance including technical integrity and safety of and, if necessary, developing the transmission system to meet the required adequate technical transmission capacity in a given area and, where applicable, its interconnection with other systems, and for ensuring the long-term ability of the system to meet reasonable demands, based on physical flows, for the transportation of gas.

### **2.1.2.**

The minimum role of the TSO would involve safety, technical integrity, reliability and efficiency of its network through

- the maintenance, operation and development of its network including sufficient long-term investment planning based among others on contractual commitments, on proper consultation of potential system users (which have registered themselves at the TSO) and, if any, on guidelines by national authorities;
- provision of non-discriminatory access to its network moving or processing any network users' natural gas within its system in fulfilment of a contract or network code (see section 3 on TPA services);
- co-operation with other TSOs and operators of other connected systems (including LNG and storage facilities and distribution networks) to ensure interoperability between different systems and efficient and non-discriminatory procedures facilitating trade and allowing network users to transport natural gas throughout the EU transmission network;
- maintaining physical system balance during the balancing period (residual balancing role) and the non-discriminatory provision to all network users and registered potential users of the information they need for efficient access to and use of the network. The residual balancing role of a TSO is determined by the need to maintain and ensure system integrity taking into account the responsibility of shippers.

### **2.1.3.**

TSOs should ensure interoperability between different systems inter alia by entering into both standardised interconnection agreements (IAs) and standardised operational balancing agreements (OBAs) at any interface. IAs and OBAs must be designed to facilitate competition and the services offered under these agreements must be published.

#### **2.1.4.**

TSOs shall be equipped, either through ownership control of assets and gas or through formal contracts or agreements, with sufficient system resources including natural gas necessary for carrying out their functions as transmission system operators including notably its residual balancing role. The system resources available to the TSO in this respect shall be transparent at least to the relevant national authorities.

#### **2.1.5.**

The development of network codes and standard contracts must be done by proper consultation with users and overseen by the regulatory authorities at the national level.

### **2.2. Role of network users**

#### **2.2.1.**

A network user (or a shipper) is a customer of a TSO and would sign the relevant network code or enter into contracts with TSOs for shipping of gas. Network users may include but are not limited to end-use customers, producers, suppliers, traders and TSOs, on condition that it is necessary for the TSOs to carry out their functions including in relation to cross-border transmission.

#### **2.2.2.**

Network users are responsible for making nominations to the TSO(s) and for balancing of their gas in-put and off-take from the system in accordance with prevailing contractual specifications, technical rules, agreed procedures and balancing rules set by the TSOs according to the principles as described in section 7.

#### **2.2.3.**

Network users should among others be responsible for:

- giving clear signals in response to data published by independent TSOs referring to future system enhancements to indicate to TSO important gas market developments relevant for the major gas flows will occur, respecting the necessary lead times to realise system upgrades;
- assisting the regulatory authorities and TSOs to help ensure that commercial difficulties such as bankruptcy etc have no effects on the effective and lean operating of systems;
- putting relevant IT in place in order to be able to communicate with TSOs via agreed interfaces and standards and thus actively support the activities of EASEE-gas on technical convergence. The goal is to reduce response times of TSO, incurred costs of data-processing to achieve efficiently working liberalised markets;
- providing all data required in the network code and/or in the transmission contracts with TSOs.

### **3. Necessary TPA services**

#### **3.0.**

In order to ensure non-discrimination between related undertakings and third parties, avoid potential distortions to trade, and facilitate gas trade and liquidity, TSOs should:

#### **3.1.**

Offer unbundled TPA services for access to pipelines and LNG facilities as well as all necessary ancillary services to the extent that such facilities are operated by the TSO or can be made available, but excluding facilities necessary for transmission system operators carrying out their functions. Ancillary services, (to the extent that such facilities are operated by the TSO) include, inter alia, allocation, blending, quality monitoring and conversion, metering, flow control and balancing.

#### **3.2.**

Offer the same range of services on the same conditions according to the principle of non-discrimination and the recovery of efficiently incurred costs including appropriate return on investment while due regard may be taken to international benchmarking, to any eligible third party within the EU as to marketing affiliates on a formal and verifiable basis subject to, if asked for by TSOs, appropriate guarantees from the network users with respect to the creditworthiness of such users. Without prejudice to the above, these guarantees must not constitute any undue market entry barriers and must be non-discriminatory, transparent, and proportionate.

Offer these services on the same contractual basis to all network users, either using standard contracts or a common network code;

#### **3.3.**

Co-operate with other TSO's and, where relevant, other system operators, on all relevant interoperability issues to develop Interconnection Agreements (IAs) and inter-TSO operational balancing agreements (OBAs) on a standardised and transparent basis. IAs and OBAs must be designed to facilitate competition and the services offered under these agreements must be offered on a non-discriminatory basis.

Co-operate with other TSO's and, where relevant, other system operators, on all relevant interoperability issues to develop Interconnection Agreements (IAs) and inter-TSO operational balancing agreements (OBAs) on a standardised and transparent basis. IAs and OBAs must be designed to facilitate competition and the services offered under these agreements must be offered on a non-discriminatory basis. IAs may cover, among others, energy specification (including pressure, temperature and chemical gas specifications), change of flow rates and the operation of the interconnection point between the network operators. OBAs may cover, among others, the operation of the network operators' energy accounts at the interconnection point. OBAs shall be used to pool small operational imbalances ensuring that network users are allocated all their full nomination, unless there is a significant net shortfall or excess (e.g. as result of a Force Majeure event).

Further details of Interconnection Agreements and Operational Balancing Agreements should be discussed within EASEE-gas with a view to meeting the requirements of a well functioning competitive single EU market for natural gas.

### **3.4.**

Actively pursue harmonisation or convergence to facilitate interoperability e.g. with regard to gas quality specifications where practical and economic. TSOs will actively support the activities of EASEE-Gas aimed at streamlining gas transportation and trading procedures across the EU;

### **3.5.**

Offer both long-term and short-term firm services including capacity services down to a minimum period of one month.

No later than 1 July 2004, offer firm and interruptible services with a minimum contract duration of one day. Where such a target is not possible by some TSO's it shall be motivated to the relevant authority and accompanied by an Action Plan by the TSO to achieve a target date of 1 July 2005 at the latest.

No later than 1 October 2003, offer interruptible services down to a minimum period of one month.

The price of interruptible capacity will reflect the probability of interruption.

Contracts signed outside of a "national gas year" (with non-standard start dates) should not result in arbitrarily higher tariffs.

The total fee for any transportation contract with a shorter duration than a reference period (e.g. year, month and day) shall reflect the availability of capacities.

If approved by the regulatory authority, the fee per unit or time for transportation services might be deviating for contracts with shorter duration due to differences in efficiently incurred costs including appropriate return taking account of opportunity costs and relevant risk.

### **3.6.**

Develop TPA services and access rules so that facilities and ancillary services can be used to meet obligations in neighbouring regimes on a non-discriminatory basis, subject to availability of such facilities and services, to public service obligations and to technical, and operational feasibility, if case may be, also economical feasibility.

### **3.7.**

Design transmission services to facilitate trading and re-utilisation of transmission capacity and in a way, which would not hamper capacity release;

### **3.8.**

European TSOs will implement standardised nomination procedures and units of measurement agreed within EASEE-gas and develop information systems and electronic communication means to provide adequate data to network users and simplify transactions

(such as nominations, capacity booking and transfer of capacity rights between network users etc.). Implementation will take place in line with time scales agreed within EASEE-gas and approved through the Madrid Forum.

Formalised request procedures and response times should be harmonised among European TSOs according to best industry practice with the aim of minimising response times and providing for on-line screen-based capacity booking and confirmation systems, nominations and re-nominations in accordance with EASEE-gas no later than 1 July 2005.

The standardised procedures shall be applied on a non-discriminatory basis to all network users including affiliates.

Network users shall not be separately charged for information requests and transactions associated with their contracts according to standard rules and procedures (e.g. nominations).

In forthcoming, mostly exceptional cases, TSOs are allowed to charge transactional costs for information requests that require extraordinary or excessive expenses such as feasibility studies (see Art. 5.4.) provided they are substantiated.

Extraordinary expenses for requests not linked to general TSO roles and responsibilities including among others those set out in section 2 can be separately charged.

### **3.9.**

Co-operate with other TSOs in co-ordinating the maintenance of their respective networks in order to minimise any disruption of transmission services to network users and TSOs in other areas and in order to ensure equal benefits with respect to security of supply including in relation to transit. To avoid distortion in trade, TSOs should publish at least once a year, by a predetermined deadline, all planned maintenance periods that might affect network users' rights from transmission contracts and the corresponding operational information with adequate advance notice. This shall include publishing on a prompt and non-discriminatory basis any changes to planned maintenance periods and notification of un-planned maintenance, as soon as that information becomes available to the TSO. During maintenance periods, TSOs shall publish regularly updated information on the details of and expected duration and effect of the maintenance. TSO should maintain and make available to the regulatory authority upon request a daily log of the actual maintenance and flow disruptions that have occurred. Information shall also be made available on request to those affected by any disruption.

## **4. Capacity allocation and congestion management**

### **4.1.**

TSOs should implement and publish non-discriminatory and transparent capacity allocation mechanisms and, when applicable, congestion management procedures, which should

- facilitate the development of competition and liquid trading of capacity taking into account the system integrity and the security of supply;
- provide appropriate economic signals for efficient and maximum use of technical capacity and facilitate investment in new infrastructure;

- avoid creating undue barriers to entry or impeding the ability of market participants, including new entrants and small players from competing effectively; The system should not hamper the entry of new participants to the market.
- be compatible with the market mechanisms including spot markets and trading hubs while being flexible and capable of adapting to evolving market circumstances.
- Be discussed with network users

These mechanisms and procedures should be reviewed and approved by the relevant authorities prior to implementation. Revenue from congestion management systems should create incentives to reduce congestion.

## **4.2.**

Network users, notably those who may be interrupted, shall be advised about the type of circumstances that could affect the availability of contracted capacity, such information being indicative.

Information on interruption should reflect the level of information available to the TSO.

In case difficulties in meeting contractual delivery obligations should arise due to system integrity reasons; TSOs should notify network users which might potentially be affected and seek a non-discriminatory solution without delay. TSOs shall consult network users regarding such procedures prior to their implementation and agree them with the appropriate regulatory authority.

## **5. Transparency requirements**

### **5.1.**

TSO shall publish in national language(s) and at the same time in English on the Internet the main conditions of all services, including tariffs and imbalance charges and maps of their network indicating all relevant points.

All points are relevant that interconnect the system of a TSO with that of other TSOs or distribution system operators and gas infrastructure, LNG facilities and infrastructure necessary for providing ancillary services as defined by Article 2(14) of Directive 2003/55/EC. Given the considerable difference in numbers of entry and exit points the issue in this respect will be decided on national level. In principle exit points covering the most important exit point and at least 50% of total exit capacity should be published.

TSOs shall publish at least the following information about their system and services:

- a. detailed and comprehensive information about all services offered and the charges for these;
- b. the different types of contracts available for the services offered;

- c. the flexibility and tolerance levels included in transportation and other services without separate charge and as well as any flexibility offered in addition to this and the corresponding charges;
- d. a detailed description of the gas system of the TSO indicating all relevant points interconnecting its system with that of other TSOs and/or gas infrastructure such as storage facilities, LNG and infrastructure necessary for providing ancillary services as defined by Article 2(14) of Directive 2003/55/EC;
- e. as applicable, the network code and/or the main standard conditions outlining the rights and responsibilities for all users of the gas system of the TSO;
- f. the capacity allocation, congestion management and anti-hoarding and re-utilisation provisions;
- g. standard documents and procedures in relation to the use of the gas system of the TSO including definitions of key terms;
- h. the rules applicable for capacity trade on the secondary market vis-à-vis the TSO;
- i. the rules applicable for connection to the system operated by the TSO;
- j. gas quality and pressure requirements.

any proposed and actual changes to the services or conditions, including the items listed in points a) to j).

## **5.2.**

First set of objectives - 1 October 2003

For the different services provided, TSO shall publish no later than 1 October 2003 physical, booked and available capacities on a numerical basis for monthly periods at all relevant points of entry/exit zones in the transmission network including transmission connection points with LNG terminals on the Internet on a regular/rolling basis and in a user-friendly standardised manner.

Where feasible, capacities for entering or exiting the system in counter flow shall also be published.

When a TSO considers it is not entitled for confidentiality reasons to publish all the data required, it could publish for that relevant point the available capacity without publishing the other numerical data expected to contravene confidentiality. Such exceptions are subject to the case by case approval by the relevant authority, which will balance the commercial sensitivity of information against the public interest for transparency. This assessment should be renewed on a regular basis. No exception is possible if three or more shippers have booked capacity at the same point. Exceptionally no data must be published when even publication of available capacity would contravene confidentiality/

TSOs shall publish at least the following information about the capacity situation of their systems at all relevant points of entry- and exit zones, points in the transmission network, connection points with LNG terminals:

- a) the maximum technical capacity for flows in both direction;
- b) the total contracted firm and interruptible capacities
- c) the available firm capacity

TSO shall publish regular up-dates of short-term capacity availability (month-ahead) based, inter alia, on prevailing contractual commitments and regular long-term forecasts of available capacities on a annual basis for up to 10 years for all relevant interconnection points as stated above.

Available capacities shall be published by 1 July 2004 for a period of at least 18 months ahead and shall be updated at least every month or more frequently if new information becomes available.

Until the necessary IT systems are installed, which TSOs will ensure not later than 1 July 2005, the publication of maximum and available capacities may be substituted by confirmation each time a shipper makes a request, provided such confirmation is given according to section 3.8.

The calculation of available capacities shall be based on network modelling and flow simulations taking into account all relevant operational parameters for an efficient and safe operation of the system. A methodology for calculating available capacities based on standardised energy units shall be proposed by GTE for discussion by the Forum. In addition, rules or methodologies for determining operating margins and commitments relating to public service obligations should be published for each TSO.

Historical maximum and minimum monthly capacity utilisation rates and annual average flows at the above points shall be published for the past three years no later than 1 January 2004 and a daily log of actual aggregate flows must be kept for three months.

TSOs shall keep effective records of all capacity contracts and all other relevant information in relation to calculating and providing access to available capacities. If necessary, the relevant national authorities shall have access to such records to fulfil their duties (e.g. in relation to complaints about refusal of access due to lack of capacity).

### **5.3.**

Second set of objectives – 1 July 2005

Whereas short-term objectives are described in Art. 5.2, this Article refers to medium-term additional objectives to be implemented until 1 July 2004. Where TSOs are unable to meet this target, they have to consult with their relevant authorities and set out an Action Plan for implementation as soon as possible but not later than end of 2005 at the latest.

For the different services provided, TSO should publish no later than 1 July 2004 physical, booked and available capacities for daily periods on the Internet on a regular/rolling basis and in a user-friendly standardised manner at the following interconnection points:

- All connection points between different TSO systems and/or entry/exit zones
- Connection points with LNG terminals and essential points within the transmission system, including points connecting to hubs

Given the considerable difference in numbers of entry and exit points the issue in this respect will be decided on national level. In principle exit points at least 50% of total exit capacity should be published.

TSO shall publish at least the following information about the capacity situation of their systems as stated above:

- a) the maximum technical capacity for flows in both directions
- b) the total contracted firm and non-firm capacities
- c) the available firm capacities;
- d) user-friendly instruments for calculating tariffs for a specific service (e.g. a tariff “calculator”) and for verifying on-line the level of available capacity;

Possible alternative solutions allowing network users to obtain efficiently and quickly similar information on such data may be appropriate, e.g. on line verifying of capacity availability.

TSOs shall publish

- i. daily up-dates of short-term capacity availability (day-ahead and week-ahead) based, inter alia, on prevailing contractual commitments, conditions and nominations
- ii and regular long-term forecasts of available capacities on a annual basis for up to 10 years for all relevant interconnection points as stated above.

## **5.4.**

All network information shall always be disclosed in a meaningful, quantitatively clear and easily accessible way and on a non-discriminatory basis. As the general rule, information and transparency shall be provided via the Internet and shall not be charged for. If such information is extensive and requires costly studies, participation by the (potential) network user is justified (see Art. 3.8).

## **6. Tariff structure and derivation**

### **6.1.**

TSO shall design tariff structures according to the following key principles. Tariffs should:

- reflect efficiently incurred costs, including appropriate return on investment; due regard may be taken to international benchmarking of tariffs;
- facilitate efficient gas trade and competition while at the same time avoiding cross-subsidies between network users;
- promote efficient use of the network and
- provide for appropriate incentives on new investments.

The tariff structure should be reviewed on a regular basis to ensure that it continues to support these principles, as the market develops. In any way tariff structure and derivation should be stable, clear and transparent.

The relevant national authorities should consider the possibility to decide on a case by case basis whether higher revenues for new investments may be appropriate and/or TSO may receive incentives for increased efficiency and entrepreneurship, or even might be part to structures for sharing risks and/or profits, e.g. alliances. Inefficiency and poor service levels should also be taken into account, where appropriate.

## **6.2.**

In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the gas network, TSOs or relevant national Authorities should publish, in national languages and at the same time in English, reasonably and sufficiently detailed information on tariff derivation and tariff structure, including at least:

- Tariff methodology and derivation;
- Tariff structure designed to promote trade and competition in gas supply;
- Functional allocation and capacity/commodity allocation principles;
- Detailed tariff design (tariff elements) including charges for capacity overrun and their derivation;
- Indexation of tariffs (if any), or principles for tariff variations;
- Specific tariffs or rules applied to backhaul transportation or specific services if any;
- Regulatory involvement in tariff setting.

## **6.3.**

TSOs should not adopt any charging principles and/or tariff structures that in any way would restrict market liquidity or distort market and trade across borders of different TSO systems or hamper system enhancements and integrity.

In case differences in tariff structures or balancing mechanisms would hamper cross-border trade, TSOs should actively pursue convergence of tariff structures and charging principles including in relation to balancing (see section 7).

TSO shall publish at least once a year the planned works on his system.

## **7. Balancing, imbalance charges, settlement processes**

### **7.1.**

Design fair, non-discriminatory and transparent balancing rules (e.g. in relation to issues such as tolerance levels, balancing period, balancing requirements in energy units etc.) that are based on objective criteria, reflecting genuine system needs and are reasonably necessary on the basis of system and flexibility resources available to the TSO.

Provide information at least to the relevant regulatory authorities with regard to the system resources (including related assets, contracts, costs etc.) at the disposal of the TSO dedicated to system operations including residual balancing.

Balancing rules and charges should be reviewed by the relevant authorities and should be broadly cost-reflective and avoid cross-subsidisation between system users and shall not hamper the entry of new participants into the market.

## **7.2.**

Ensure that the same rules (including the same charges for flexibility services provided by the TSO) are applied to own commercial operations of vertically integrated companies as to third parties on a formal and verifiable basis. Tolerance levels shall be designed in a way that reflects seasonality and the actual technical capabilities of the transmission system;

## **7.3.**

Ensure that balancing charges are non-discriminatory, broadly cost-neutral and published whilst providing appropriate incentives on network users to balance in-put and off-take of gas and not to endanger the system neither to create a risk of disruption of gas supply. Penalties collected by TSOs, over and above the actual efficiently incurred balancing costs, from system users being out of balance shall be redistributed back to the system users on a non-discriminatory basis;

## **7.4.**

Ensure compatibility of balancing regimes (tolerances, imbalance charges etc.) in order to facilitate gas trade across borders of different TSO systems. European TSOs shall endeavour to harmonise balancing regimes and streamline structures and levels of balancing charges in order to facilitate trade. Where it is justified that balancing regimes (tolerances, imbalance charges, balancing periods etc.) remain different between interconnected networks, standardised agreements and procedures between TSOs should be put in place in order to facilitate gas trade. Such arrangements shall be published and notified to the relevant regulatory authority;

## **7.5.**

Design balancing regimes in a way, which would not hamper the development of competition in the provision of ex ante balancing services;

## **7.6.**

Facilitate at least ex ante pooling and trading of imbalance services between different system users in a non-discriminatory and cost-reflective manner within balancing zones as agreed by the relevant national or Community competition rules.

## **7.7.**

Market participants shall be provided with sufficient, well-timed and reliable on/line-based information by 1 July 2004. Where TSOs are unable to meet this target, they have to consult with their relevant authorities and set out an Action Plan for implementation as soon as possible, but not later than end of 2005. about their balancing status and imbalance charges to

be updated in a manner allowing the network users concerned to respond within balancing periods to the information provided such information can be provided at reasonable costs.

Information on imbalance positions shall allow system users to take timely corrective actions provided TSOs have or can be reasonably expected to obtain the relevant information and the provision of such information is economic.

## **8. Market based mechanisms such as secondary market**

### **8.1.**

TSO shall allow and facilitate TPA capacity rights to be freely tradable between registered shippers in a secondary market without any undue obstacles and develop standardised contracts and procedures on the primary market to facilitate secondary trade of capacity and recognise the transfer of primary capacity rights where notified by network users. TSO must allow the new owner to aggregate such capacity with its existing capacity operationally.

The way secondary market operates should be simplified by the existence of a network code or a standardised transmission contract by the TSO with provisions that makes them easy tradable. There should be the opportunity for network users and the TSO to propose modifications to this contract through time.

Where requested and paid for by network users, provide cost-reflective services (such as an electronic platform or bulletin board) to facilitate secondary capacity trading and associated transfer of capacity rights between network users;

### **8.2.**

TSO shall actively endeavour to discourage capacity hoarding and facilitate reutilisation of un-used capacity.

In case of prolonged and significant non-use of contracted capacity by a system user and the contractual paths involved in the case of contractual congestion, TSOs shall, in consultation with the competent authorities, actively endeavour to free up un-used capacity make it available to the primary market.

TSOs shall facilitate trading of unused capacity at least on a day-ahead and interruptible basis. The basis for a possible interruption must be clearly set out.

Revenues from released interruptible capacity shall be treated according to the rules defined by the relevant national authorities. These rules must be compatible with the requirement of an effective and efficient use of the system.

## Definitions

**“available firm capacity”**: the part of the technical capacity that is not allocated and is still available to the system users at that moment.

**“balancing period”**: the period within which the off-take of an amount of natural gas, expressed in units of energy, must be offset by every system user by means of the injection of the same amount of natural gas into the transmission network in accordance with the contract or the network code;

**“capacity”**: the maximum flow, expressed in normal cubic meters per time unit or in energy unit per time unit, to which the system user is entitled in accordance with the provisions of the transmission contract.

**“congestion management”**: management of the capacity portfolio of the transmission undertaking with a view to optimal and maximum use of the technical capacity and the timely detection of future congestion and saturation points.

**“contractual congestion”**: situation where the level of firm capacity demand exceeds the technical capacity (all technical capacity is booked as firm).

**“firm capacity”**: gas transmission, LNG or storage capacity contractually guaranteed by the transmission, LNG or storage undertaking.

**“nominated flow”**: the flow that the system user has previously reported to the transmission undertaking as actual flow that he wishes to inject into or withdraw from the system.

**“nomination”**: the prior reporting by the system user to the transmission undertaking of the actual flow that he wishes to inject into or withdraw from the system.

**“non-firm or interruptible capacity”**: gas transmission, or LNG capacity that can be interrupted by the transmission, or LNG undertakings according to the conditions stipulated in the access contract. The contract may specify the permitted duration, frequency and timing of the interruptions. It may also specify the previous notice required and possibly a fee related to the duration of the interruptions.

**“physical congestion”**: situation where the level of demand for actual deliveries exceeds the technical capacity at some point in time.

**“primary market”**: market of the capacity traded directly by the TSO.

**“re-nomination”**: the reporting of a corrected nomination;

**“residual balancing”**: physical balancing to ensure system integrity during the balancing period.

**“secondary market”**: market of the capacity traded otherwise than on the primary market.

**“system integrity”**: any situation in respect of a transmission network or a transmission facility in which the pressure and the quality of the natural gas remain within the minimum and maximum limits laid down by the transmission undertaking, so that the transmission of natural gas is guaranteed from a technical standpoint;

**“technical capacity”**: the maximum firm capacity that the transmission, or LNG or storage undertaking can offer to the system users, taking account of the system integrity and the operational requirements of the transmission network.

## ANNEX 2

### 7<sup>TH</sup> MEETING OF THE MADRID FORUM

#### ACTION PLAN AIMED AT IMPROVING TECHNICAL INTEROPERABILITY

##### Agreed actions in relation to harmonisation of units:

1. The following units are recommended by EASEE-gas and supported by the Forum:

Pressure	bar
Energy	kWh (with a combustion reference temperature of 25°C)
Volume	m <sup>3</sup> (at 0°C and 1.01325 bar) (normal m <sup>3</sup> )
Gross Calorific Value	kWh/m <sup>3</sup> (normal m <sup>3</sup> ), with a combustion reference temperature of 25°C

2. All relevant Authorities to initiate change of relevant legislation without delay, in order to enable the completion of the implementation of the recommended units by TSOs in agreements with their relevant counterparties, by 1 October 2005.
3. EASEE-Gas to propose to ISO to give a proper status to the recommended units. All EASEE-gas members and Madrid Forum participants should support this proposal to ISO.

##### Agreed actions in relation to gas specifications:

1. Continue the discussions within EASEE-gas amongst all relevant stakeholders (upstream to downstream) with regard to streamlining interoperability for high calorific gas qualities in line with the Action Plan sanctioned at the 6<sup>th</sup> meeting of the Forum.
2. By the next Forum meeting, EASEE-gas is to make a recommendation for resolution of any issues caused by Wobbe limitation and billing arrangements leading to restriction in the GCV range.

##### Agreed actions in relation to operational procedures:

1. All TSOs to implement consistent operational procedures at each Interconnection Point (IP) in accordance with recommendations of business rules and communication standards.

2. All TSOs to implement allocation rules and balancing agreements and rules at each IP in accordance with future EASEE-Gas recommendations;
3. BA type procedures should gradually – and no later than by the end of 2003 where technically reasonably possible – be used by all TSOs at all IPs where there is a market demand for this.

### **Agreed actions in relation to business rules and communication standards**

1. EASEE-Gas to finalise a recommendation with regard to the nomination scheme (initial nomination scheme, re-nomination scheme, including matching processes at each Interconnection Point (IP), including a default rule in case of mismatch and including the content and type of messages) by 1 November 2003 for implementation at the earliest technically and contractually possible.
2. Further harmonisation of other issues, amongst others allocation rules and processes, communication protocols, treatment of constraints, hub practices and rules. The standard template for OBA should also be reviewed and agreed no later than by mid-2004 in order to take into account the output of the business rules.
3. EASEE-Gas to support common communication protocols based on the Edigas standards that should be more generally applied at EU level.