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23 January 2008

E07-LNG-03-06 - Draft Guidelines of Good Practice on Third Party Access for LNG System Operators (GGPLNG) – An EREG Public Consultation Paper

Dear Mrs Geitona,

Thank you for the opportunity to respond to the issues raised in this consultation document. The comments contained in this response are offered on behalf of Shell Energy Europe BV. Please note, this response is not confidential and so may be published on your website.

General Questions

The GGPLNG aim is to boost effective, appropriately homogenous and non-discriminatory, third party access to European LNG import terminals without being detrimental to new investments. How could TPA/harmonisation and investment be conciliated?

The most obvious issue would be to ensure that homogeneity does not lead to a prescriptive ‘one size fits all’ approach. In such a case, harmonised arrangements could lead to the inefficient use of some terminals, thus distorting subsequent investment signals and having security of supply implications. In that regard, it is important that arrangements are harmonised at a level that can be implemented at all terminals and, as suggested above, be effective and appropriate. This would imply that any technical constraints or local conditions should be taken into account. For instance, while the provision of information is an important consideration, care has to be taken to ensure that due to the specific technical nature of a terminal, such a provision does not mean revealing the commercial position of a single party.

The GGPLNG aims at facilitating harmonisation of services, procedures, conditions... in order to foster interoperability and facilitate access to regulated LNG facilities. To what extent is harmonisation of regulated access procedures convenient/possible? Which areas should be harmonised (i.e. transparency, network code procedures, balancing rules etc.)? Is the current degree of detail and prescriptiveness of the GGPLNG considered adequate? Is the need for common EU-wide requirements adequately balanced against the need for flexible rules?

The current categories of areas where arrangements could be harmonised would seem a sensible approach. However, as indicated above, within each category the degree to which the details can be harmonised is a crucial consideration. We would therefore again emphasise the need to recognise the nature of individual facilities and local market considerations. For example, the detailed nature of balancing rules will change from market to market.

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Considering the voluntary character of the GGPLNG it would be interesting to know what transitional effects you think the GGPLNG implementation could cause, and what could the implementation cost be in your particular case. Are you going to get benefits (commercial, decrease of management cost etc.) with the GGPLNG application?

At present, we have nothing to add in response to this question.

The GGPLNG do not apply to terminals exempted under Article 22 of Directive 2003/55/EC. In your view, could there be any value for regulators to use some recommendations in the GGPLNG as an input when adopting individual exemption decisions (for example, as approval requirements when granting a conditional exemption). If yes, please explain why and with regard to which aspects of the GGPLNG (e.g., services definition, transparency obligations etc.)?

The attractiveness of doing so is obvious insofar as it would help harmonise arrangements across all import terminals. However, as argued in response to an earlier question, the question of appropriateness is a vital consideration. As such, there is little value in any potential direct read-across as mooted in this question given that:

- a) RTPA terminals will be multi-user facilities where the investment risk is underpinned by regulated tariffs; whereas
- b) Exempt terminals will typically have one or two capacity holders with long-term contracts underpinning the investment risk

As such, the applicability of the GGPLNG would not be correct. By way of further explanation, with an RTPA terminal, the operator may be relatively neutral from a financial perspective to, for example, Use-It-Or-Lose-It (UIOLI) rules or the basis on which unutilised capacity is deemed to unusable by the primary rights holders and therefore made available to the other capacity holders. However, for obvious reasons this would not be the case with an exempt terminal where prescriptive restrictions could reduce the extent to which parties would be willing to make long-term financial commitments.

Therefore, to do as this question suggests could increase the level of investment risk for projects seeking an exemption. It is, therefore, to be welcomed that the document is clear that guidelines are intended to apply to regulated TPA terminals only.

Tariffs for access to the system

The issue of the proposed frequency of tariff reviews could be considered to be an issue for the NRA; it is the NRA that sets the revenue allowance and approves the tariff charging methodology for a regulated terminal. Whether this issue should therefore be contained in the GGPLNG is a moot point and clarity would be welcomed.

As a general comment, however, we would advocate stability of charges. As such, the frequency of changes should be kept to a minimum.

TPA Services

In principle, offering unbundled and interruptible services in addition to bundled and firm services could lead to a more efficient use of the facility and increased optimisation opportunities. However, we would again stress the need to take into account any technical constraints that may exist at the facility when defining the standard bundled unit should take into account. To do otherwise would suggest a divergence from the physical capacity of the terminal.

Capacity Allocation and Congestion Management

Many of the principles underpinning the proposals in this area should be supported. For instance, the need for an anti-capacity hoarding mechanism is recognised and supported by Shell.

One issue that needs to be considered is the impact of a prescriptive interpretation of capacity and unused capacity. Such an interpretation could inhibit interested parties from making firm capacity bookings and/or parties from bringing in LNG from further afield. If this occurred, the nature of flows from the terminal could change from baseload to spot deliveries with consequences for security of supply.

In addition the inherent physical inflexibility in the LNG supply chain, compared to pipeline gas, means that operational flexibility at the terminal, or groups of terminals, needs to be preserved otherwise rigid application of capacity rules can have disproportionate consequences.

Transparency Requirements

The requirement for a terminal code should be welcomed providing that it is flexible enough to take into account any terminal-specific conditions. At this stage, it is not clear on what basis changes could be made to the code, so further clarity would be useful.

However, other requirements in this area do appear to make assumptions about the physical nature of the terminal and the number of users. A concern would be that the proposals may, under certain conditions with respect to the size of the facility and the number of capacity holders, reveal commercially sensitive information.

If so, and these concerns remain unaddressed, it would seem reasonable to conclude that this could discourage use of the terminal.

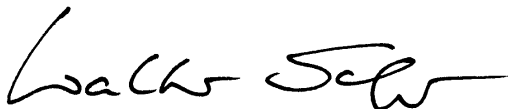
Trading of Capacity Rights

We note the comment that doubts have previously been expressed regarding the need for an organised trading of capacity. We would agree with such views and therefore see little merit in this particular aspect of the GGPLNG; trading can and already does take place.

I trust you have found these comments useful.

Yours sincerely,

Shell Energy Europe B.V.

A handwritten signature in black ink, appearing to read 'Walter Schaefer', written in a cursive style.

Walter Schaefer
Regulatory & External Affairs Manager
Shell Energy Europe