



**EREG Final 2006 Report on  
Monitoring the Implementation of the  
Guidelines for Good TPA Practice for  
Storage System Operators (GGSSO)**

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## 1 Background

### 1.1 Why is access to gas storage important?

The availability of flexibility mechanisms is an essential condition for entering and operating in the gas market, due to the requirement to adapt supply to foreseeable variations in demand and adjust fluctuations of demand with adequate supply. National incumbents are likely to have relevant flexibility tools which may not be available to all small players or newcomers (e.g. incumbents may enjoy greater import flexibility thanks to privileged relations with the big EU and extra EU producers, as well as greater flexibility due to their larger portfolios of customers).

Although situations differ widely from one country to another, storage is the main tool for providing flexibility services in Europe: withdrawals from storage facilities are the major source of temporary additional gas supply. Storage provides seasonal swing, but it often also provides the quickest and safest form of flexible gas supply for short-term requirements such as peak shaving and parking. In addition, as most European countries are strongly dependent on imports, storage may also be used to maintain gas reserves to protect customers from interruptions.

According to users alternatives to storage are currently limited in Europe: Other tools, when they exist, such as spot markets or flexibility in supply contracts, are not always equivalent to the services storage can provide. Competition between storage operators is restricted. Storage in praxi largely remains a monopoly. Even in countries where more than one SSO is operating service offers remain monopolistic to a large extent as products are not comparable and/or no capacity is available.

Therefore it is crucial for the efficient and effective operation of the market development and for security of supply that there is “objective, transparent and non-discriminatory” access to storages as stated in Article 19 of Directive 2003/55/EC so that all market participants can benefit from access to storage on an equal basis.

### 1.2 ERGEG’s Gas Storage Guidelines (the “GGPSSO”)

In order to ensure full and harmonized implementation of Article 19 among Member States ERGEG developed **voluntary** Guidelines for Good Practice for Gas Storage System Operators (GGPSSO). The **GGPSSO were developed through extensive and transparent public consultation**. They are aimed at setting out the minimum requirements for the provision of fair and non-discriminatory access to storage facilities and services in line with the Gas Directive<sup>1</sup>. On 18 March 2005, **European stakeholders including GSE<sup>2</sup> - as the representative body of European storage operators - agreed at the Madrid Forum Joint Working Group to adopt these guidelines which were to be implemented from 1 April 2005.**

The guidelines out the **minimum requirements** for the provision of fair and non-discriminatory access to storage facilities and services in line with the Gas Directive<sup>3</sup>.

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<sup>1</sup> In accordance with Articles 2(9) and (19) of the European Directive 2003/55/EC (the 2<sup>nd</sup> Gas Directive).

<sup>2</sup> Gas Storage Europe (GSE), subgroup of Gas Infrastructure Europe (GIE).

<sup>3</sup> In accordance with Articles 2(9) and (19) of the European Directive 2003/55/EC (the 2<sup>nd</sup> Gas Directive).

The European Commission requested that ERGEG monitor the implementation of the GGPSSO. ERGEG published its final 2005 report of the first monitoring study in December 2005 after an initial draft was presented at the 10<sup>th</sup> Madrid Forum on 15 and 16 September 2005 and after all interested parties were consulted.

### 1.3 ERGEG's monitoring in 2005 reports disappointing results

The results from ERGEG's monitoring of the implementation of the voluntary GGPSSO in 2005 were disappointing<sup>4</sup>. In particular, there were some key areas where the level of implementation was not sufficient:

- some basic **requirements of the Gas Directive** which were reflected in the GGPSSO **had not been implemented by some SSOs**;
- the **majority of SSOs had not fully implemented the requirements relating to transparency and secondary markets**; and
- in some countries, **it was unclear how much storage capacity was excluded from TPA** .

ERGEG's monitoring work also showed that assessing compliance against **some specific requirements of the GGPSSO needed further investigation**, possibly at national level (i.e. those on **confidentiality, and congestion management and capacity allocation mechanisms**).

ERGEG proposed to undertake a second monitoring exercise in 2006 assessing the effectiveness of the GGPSSO and the functioning of the market for storage services. The final results of this work are presented in this report.

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<sup>4</sup> See: Report: [http://www.ergreg.org/portal/page/portal/ERGREG\\_HOME/ERGREG\\_DOCS/ERGREG\\_DOCUMENTS\\_NEW/GAS\\_FOCUS\\_GROUP](http://www.ergreg.org/portal/page/portal/ERGREG_HOME/ERGREG_DOCS/ERGREG_DOCUMENTS_NEW/GAS_FOCUS_GROUP) and PR of 26 January 2006: [http://www.ergreg.org/portal/page/portal/ERGREG\\_HOME/ERGREG\\_ADMIN](http://www.ergreg.org/portal/page/portal/ERGREG_HOME/ERGREG_ADMIN)

## 2 ERGEG's Key findings and recommendations of its 2006 Monitoring

### 2.1 Unsatisfactory compliance in key areas

ERGEG undertook a second monitoring exercise in 2006 assessing the effectiveness of the GGPSSO, and the functioning of the market for storage services. The initial results (2006 Interim Report) were presented at the 11<sup>th</sup> Madrid forum (May 2006). The final results of this work presented in this report, take into account comments received from all stakeholders, indicate that compliance has improved.

However, more than one year after the adoption of the GGPSSO compliance still remains unsatisfactory in key areas which are essential for non discriminatory access:

- **transparency**,
- **equal treatment of storage users** (including confidentiality requirements),
- **congestion management** (including secondary markets).

Also, **access to storage remains limited**. Out of the largest twenty SSOs surveyed in the report, eleven SSOs have less than five users.

These monitoring results (31 storage operators considered representing around 90% of total storage capacity in Europe<sup>5</sup>), which have been backed up by storage users, show that **access to storage is generally not satisfactory across Europe. This has significant implications for the operation of the EU gas storage market:**

- poor transparency in access conditions is a major issue for storage users and may result in a **barrier to entry** for entrants. The lack of transparency about access conditions may strengthen dominant positions and hampers market development;
- **confidentiality** firewalls are intended to limit and remove information asymmetries and prevent market failures. **Where no separation is set for information flows between storage operators and affiliates, other market participants can be put at a significant disadvantage;**
- **congestion is a barrier to entry.** The absence of effective and non discriminatory procedures for congestion management and the modest development of secondary markets **allows capacity hoarding** to occur;

On the **regulatory side, ERGEG reaffirms its position that there is no need for a unique fully regulated regime across Europe.** Instead, as provided for in the 2nd Gas Directive, **Members States should be free to choose between regulated and negotiated access regimes.** It is ERGEG's preference that negotiated access should be chosen when there is real competition in the flexibility market. **Furthermore regulators should be given the adequate powers to ensure that results of access to storage are similar,** whatever access regime has been chosen (negotiated or regulated access) by Member States. The reason is that **diverse levels of regulatory powers** across the Union **may**, in some cases, prevent the achievement of this result, namely in case of weak regulatory enforcement powers, with **possible consequences in terms of uneven access conditions across Europe."**

<sup>5</sup> 14 more SSOs (45 total) participated in the monitoring but were treated separately as they are exempt from TPA, not fully operational, belong to countries where TPA provisions are still relatively recent, or did not provide enough information for a monitoring assessment to be made.

Relying solely on the performance of single SSOs as a yardstick for an effectively functioning storage market is misleading. While there is good compliance of some SSOs, the overall picture is diverse and creates split market conditions throughout Europe a single market requires necessary convergence of standards. Even if the storage market might be considered more a regional than a pan-European market, **a minimum level of harmonisation on conditions for access to storage on a European level is required to avoid market distortions.**

## 2.2 ERGEG recommends binding legislation for gas storage

At the 11th Madrid Forum (May 2006), ERGEG was asked to prepare recommendations for the European Commission aimed at ensuring effective non-discriminatory access to storage.

Given the fact that implementation of the voluntary arrangements developed by ERGEG have not been fully complied with and because of differences in regulatory powers, **ERGEG recommends to the European Commission that binding legislation for access to gas storage needs to be introduced.** Particular attention should be given to the areas where compliance with the GGPSSO remains weak.

As happened for transmission, **the voluntary guidelines developed by ERGEG should form the basis for any binding commitments.** However, since ERGEG's monitoring exercise showed that in certain areas there was a scope for improving requirements, it may be necessary to go further than the obligations currently provided in the GGPSSO, in order to ensure equal and fair access to storage.

Set out below are some highlights on the key areas already mentioned. An argument made by SSOs in their feedback regarding ERGEG's 2006 Interim Report was that non-compliance tended to revolve around smaller SSOs for which compliance was more difficult. The analysis which follows in this introduction focuses only on the largest 20 SSOs covered in the monitoring report<sup>6</sup>, and shows that **even for those 20 largest SSOs, compliance regarding many important points remains low and uneven.** As in the rest of the report, the situation depicted in this section is the situation reported by SSOs as of 8 March 2006<sup>7</sup>.

## 2.3 Ensuring transparency

The GGPSSO provide a list of operational information to be published by SSOs. Publication of relevant data is crucial to the efficient and transparent operation of the storage market as it helps to ensure that market players can take commercial decisions with full knowledge of information. The GGPSSO contain a number of requirements in relation to publication of information.

ERGEG's 2006 monitoring report indicates that:

- **methods used by SSOs to calculate capacities are unsatisfactory and not consistent;**

<sup>6</sup> "Total capacity" refers to the total capacity of the 20 largest SSOs covered in the monitoring report. These SSOs account for 62.7 bcm of capacity or 96% of the capacity covered in the report. The report itself covers about 92% of the EU's total capacity. Although restricted to 20 SSOs, the analysis in this section is therefore highly representative.

<sup>7</sup> For capacity figures, SSOs were offered the option of providing updated data reflecting their situation at 1 April 2006, but only a few did. During the Madrid Forum, SSOs were given the opportunity to provide updates regarding their level of compliance with the GGPSSO until the end of the consultation period on 29 June 2006. Again, only a few SSOs did, and their updates were relatively minor.

- a few SSOs still do not publish tariffs and main commercial conditions although required by EC Directive 2003/55;
- 12 SSOs accounting for 63% of total capacity do not publish good quality information regarding aggregated outflows and inflows and historical utilization rates, and are unable to justify such non-publication on confidentiality grounds;
- 5 SSOs do not publish information about maintenance periods.

## 2.4 Ensuring equal treatment of storage users, including confidentiality

It is important that storage capacity is allocated on fair and non-discriminatory basis to ensure that no distortions or barriers to entry are created within the market. This means setting out rules about how users' capacity rights are treated. **The report did not find evidence that all measures have been consistently taken across Europe to ensure that storage operators do not favour their supply branch in some way.**

Currently, out of 20 SSOs, only 1 SSO does not have any supply affiliates. Out of the remaining 19 SSOs, only 9 are legally unbundled. European Commission legislation does not require SSOs to be legally unbundled, or to be entirely separate from any supply affiliates. But when SSOs have supply affiliates, and in particular when they are not legally unbundled, safeguards must be in place to ensure that affiliates are not treated differently from other system users. In particular, **affiliates should not have access to more information than other system users or be provided with information in advance of other users.**

**The monitoring report indicates that out of the 19 SSOs that have supply affiliates, only 7 fulfill all of the GGPSSO's confidentiality requirements. The remaining SSOs, accounting for 47% of total capacity, do not comply with at least one of the GGPSSO's requirements:**

- 8 SSOs operate from the same building as their supply affiliates;
- 6 SSOs have confidentiality arrangements that are not subject to any kind of external monitoring;
- 2 SSOs use the same databases as their supply affiliates;
- 2 SSOs do not have measures in place to prevent information from being passed affiliates in advance of other system users.

In addition to confidentiality requirements, the GGPSSO contain an obligation regarding SSOs that are not legally unbundled: "the SSO should draw up a document setting out all the terms and conditions relating to storage use by the affiliate company to be made available to the relevant national regulatory authority upon request". Although all SSOs claim that they possess such a document, a number of them failed to produce all or parts of the document when it was requested by their NRA.

## 2.5 Addressing congestion management, including secondary markets

Congestion management is an important issue as most European storages are fully booked. The report indicates that out of 20 SSOs, **16 SSOs representing 84% of total capacity are congested or almost congested (meaning that no capacity, or no more than 5% of technical capacity, is available). The report also indicates that in a number of cases, SSOs will be congested for many years.** The European Commission's Preliminary Findings on Sectoral Inquiry (February 2006) supports this point for the countries under review.

**Secondary markets are also essential for the development of competition in storage services** as they can help to improve the availability and use of storage capacity which is a prerequisite for the development of gas to gas competition - especially in cases of congested storage capacity. Aside from the implementation of appropriate congestion management instruments – e.g. making unused capacity available to the market – SSOs should ensure the efficient use of capacity by allowing trading of capacity on secondary markets and facilitate the development of such markets.

**19 SSOs design the mechanisms they use to manage physical congestion by themselves. 4 storage system operators do not have explicit measures for congestion management.**

In addition, **11 SSOs representing 58% of total capacity do not offer all unused capacity on an interruptible basis** as a way to manage contractual congestion as requested in the GGPSSO. This result is particularly important given that virtually all of these SSOs are congested or almost congested.

With regard to secondary markets, the GGPSSO's requirement regarding electronic bulletin boards has been in effect since April 2006. Nonetheless, 10 SSOs accounting for 51% of total capacity still have not set up such a platform. 8 SSOs do not allow title transfer and 5 do not consider the requirement is applicable to them.

## 2.6 Levelling regulatory powers

EREG's 2006 monitoring report also found that the **powers of the regulators regarding access to storages are uneven across Europe, including when access to storage is negotiated**. In these conditions, **rights and duties of market players may not be ensured in the same way across countries, making again more difficult an equal access to storages**. For example:

- on confidentiality arrangements, in only 8 countries, the arrangements made to implement the GGPSSO requirements with regard to confidentiality are comprehensively monitored or supervised by at least one relevant national regulatory authority (RNRA) and monitoring/supervision by the relevant national regulatory authority varies greatly depending on the legal/regulatory framework in each Member State;
- on capacity excluded from TPA, in 3 Member States, as opposed to the EU's other Member States, all exclusions of capacity from TPA are not approved or monitored by an NRA;
- on congestion management mechanisms, in 8 Member States, SSOs design congestion management mechanisms themselves without any relevant NRA participation; in 4 Member States, SSOs design congestion mechanism based on the input of some relevant NRA (i.e. based on national regulation, or in consultation with a relevant NRA);
- on consultations, in 7 Member States, consultations are supervised by an relevant NRA. However in the rest of the EU, relevant NRAs do not monitor consultations.

**EREG calls for regulators be given the adequate powers to ensure that the results of access to storage are similar across Europe.**

### 3 Approach

#### 3.1 Method

To undertake its monitoring work, the ERGEG Storage Task Force (led by CRE and AEEG)<sup>8</sup> developed:

- questionnaires for storage systems operators, including an update of the 2005 report and a new questionnaire, consisting of more in-depth questions on requirements already addressed last year, particularly where the GGPSSO require compliance as of 1 April 2006;
- a storage national report for NRAs, to update and complement the information presented in the 2005 Regulators' national reports.
- an Interim report based on answers to the SSO questionnaires and NRA reports: the Interim report was presented at the 11<sup>th</sup> Madrid Forum on 18-19 May 2006 and stakeholders were invited to comment on it by 29 June 2006

**All non-confidential questionnaires, national storage reports and comments on the Interim report, are available on ERGEG's website<sup>9</sup>.** A list of respondents is included Annex 2. Annex 3 contains a summary of comments on the Interim report, while Annex 4 lists the changes to the Interim report in ERGEG's Final report.

#### 3.2 Responses from Storage System Operators (SSOs)

45 SSOs participated in the monitoring exercise. The 3 Romanian SSOs that participated last year (Amgaz, Depomures and Romgaz) did not this year. Conversely some SSOs that participated in this year's exercise did not participate in last year's. This is the case of RWE DEA (DE), STEAG (DE), Deutsche Essent (DE), Exxon Mobil (DE), Pozagas (SK), Nova Naturgas (SW), Gasspeicher Hannover (DE), Statoil (DE) and N-ERGIE (DE).

The 45 SSOs that participated are treated, either

- in the main body of the text: these 31 SSOs are subject to the GGPSSO and provided enough information in order to be adequately monitored; they represent about 92% of total EU capacity.
- 14 SSOs are treated in Annex 1:
  - 5 of them are not subject to the GGPSSO because they are:
    - exempt from TPA: Latvijas Gaze (LV) and Transco Lng Storage (UK);
    - very new and therefore not fully operational: Deutsche Essent (DE);
    - from a member State where effective TPA arrangements are still relatively recent: POGC (PL), Nova Naturgas (SE) (the latter is also not a pure SSO since it only provides linepack).

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<sup>8</sup> The French and Italian regulatory authorities.

<sup>9</sup> [http://www.ergeg.org/portal/page/portal/ERGEG\\_HOME/ERGEG\\_PC/Gas%20Storage%20Monitoring%202006/XIth%20Madrid%20Forum](http://www.ergeg.org/portal/page/portal/ERGEG_HOME/ERGEG_PC/Gas%20Storage%20Monitoring%202006/XIth%20Madrid%20Forum)

- The remaining 9 SSOs did not provide enough information for a monitoring assessment to be made<sup>10</sup>:
  - 1 did not provide the information because effective TPA arrangements are still relatively recent in its Member State: E.ON Gas Sverige (SE);
  - 1 SSO did not provide the information because it is not fully operational due to an accident GASAG (DE) (GASAG also states that it is not obligated to comply with the GGPSSO given that they are not binding);
  - for 3 SSOs, the NRA states that it is unclear whether the facilities are subject to the GGPSSO: Gasspeicher Hannover (DE), Exxon-Mobil (DE), Gaz de France E&P (DE);
  - 3 SSOs did not provide the information for other reasons: N-ERGIE (DE) said it needed a translation for legal certainty, Statoil (DE) cited time constraints, while SWKiel netz (DE) explained that it was not involved in the definition of the GGPSSO and did not implement them;
  - 1 SSO completed the 2006 questionnaire but did not complete either version of the 2005 questionnaire making its inclusion in the main analysis impossible: Pozagas (SK).

### 3.3 Responses from National Regulatory Authorities (NRAs)

There are storage facilities in 15 EU Member States and responses were received from respective ERGEG Members in 14 of these Member States. Latvia did not fill out a report. However, its only SSO, Latvijas Gaze, is exempt from TPA until 2010.

### 3.4 Input from stakeholders, including system users, regarding ERGEG's 2006 Interim Report

Stakeholders, including storage users, reacted to ERGEG's 2006 Interim's Report during the 11<sup>th</sup> Madrid Forum on 18-19 May 2006.

Stakeholders also submitted written comments to ERGEG after the XI<sup>th</sup> Madrid Forum:

- 6 SSOs submitted corrections regarding the contents of the Interim report: NAFTA (SK), RWE Transgas (CZ), BP (NL), EON Hanse (DE), SSE (UK), EON Thueringer (DE)
- GSE, as well as 4 individual SSOs, submitted comments regarding the conclusions of the Interim report: Centrica (UK), RAG (AT), SSE (UK), ExxonMobil (DE)
- 1 system user submitted comments on the conclusions of the Interim report<sup>11</sup>: Union of the Electricity Industry –EURELECTRIC

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<sup>10</sup> Sufficient information is defined as answers to the 2006 questionnaire and to either version of the 2005 questionnaire (whether last year's, this year's, or both).

### 3.5 Purpose of this document

The purpose of this document is to set out the final results of **EREGG's 2006 monitoring exercise into the implementation of the GSSO and EREGG's recommendations to the European Commission.**

The structure of this document follows that of the GGPSSO from Chapter 5 onwards.

- Chapter 1 - Introduction
- Chapter 2 – EREGG's Key Findings and Recommendations of its 2006 Monitoring
- Chapter 3 – Approach
- Chapter 4 – Background – Overview of Storage Markets and Regulation in the EU
- Chapter 5 – Confidentiality Requirements (the section on Roles and Responsibilities of Storage System Operators has been merged with Necessary TPA Services section);
- Chapter 6 – Necessary TPA Services
- Chapter 7 – Storage Capacity Allocation and Congestion Management;
- Chapter 8 – Transparency Requirements
- Chapter 9 – Secondary markets

Monitoring the “tariff structure and derivation” requirements within the GGPSSO is beyond the scope of this report. Some information on tariffs is presented in Chapter 4 (Background on the EU gas storage market) and in Chapter 8 (Transparency requirements).

## 4 Background – overview of storage markets and regulation in the EU

### 4.1 Working capacity for each Member State

The following table presents the working storage capacity<sup>12</sup> (excluding LNG) for each Member State (as provided by ERGEG members)<sup>13</sup>.

*Working capacity in the EU: (as provided by NRAs)*

Country	ERGEG member	Working capacity in 2006 and increases relative to last year (bcm)
Germany (DE)	BNETZA	19.6 (+0.5)
Italy (IT)	AEEG	13.3 (+0.5)
France (FR)	CRE	11.2 (+0.2)
Netherlands (NL)	DTE	5.0 <sup>14</sup>
United Kingdom (UK)	OFGEM	3.5
Hungary (HU)	HEO	3.4
Austria (AT)	E-Control	2.8
Latvia (LV)	PUC	2.3
Spain (ES)	CNE	2.3 (+0.2)
Czech Republic (CZ)	ERU	2.1
Slovak Republic (SK)	RONI	1.7
Poland (PL)	ERO	1.6 (+0.3)
Denmark (DK)	DERA	0.8
Belgium (BE)	CREG	0.7
Sweden (SE)	STEM	0.01
<b>Total EU working capacity</b>		<b>70.31 (+1.71)</b>

#### Comparison with the 2005 monitoring report results

Total EU working capacity increased from 68.61 bcm to 70.31 bcm.

<sup>12</sup> Capacity used for storage purposes.

<sup>13</sup> Where an ERGEG member is not listed this is because there is no working storage capacity in that country.

<sup>14</sup> This volume covers the overall storage capacity of NAM (4.5 Bcm) and BP (0.5 Bcm). Only part of this capacity is offered via TPA, representing approximately 0,2 Bcm (35;17;n). The large majority of storage capacity is reserved for production and PSO-obligations.

## 4.2 Legal and regulatory framework of TPA to storage

Article 19 of European Directive 2003/55/EC (the Gas Directive) requires that all Storage System Operators (SSOs) provide fair and non-discriminatory Third Party Access (TPA) to their facility (unless an exemption has been granted under Article 2.9), when technically and/or economically necessary for providing efficient access to the system for the supply of customers.

In 9 countries (Austria, Belgium, Denmark, Germany, Hungary, Italy, Netherlands, Spain, UK), even before the adoption of the Directive, national legislation already provided for TPA access to storage. In some of these countries, the legal and regulatory framework for storage was reviewed or adapted following the entry into force of the Directive:

- Belgium - the law transposing the Gas Directive was passed in June 2005 and contains some new provisions with regard to access to storage;
- in Germany, the law transposing the Gas Directive (Energiewirtschaftsgesetz – EnWG) entered into force on 13 July 2005. The newly created Bundesnetzagentur (BNetzA) is competent to monitor access conditions to storage.

In other countries (Czech Republic, France, Latvia, Poland, Slovakia, Sweden), TPA to storage is more recent as it was introduced with the transposition of the Directive into national law. In 2 countries in particular, the experience of TPA to storage is still limited:

- in Poland, new legislation providing for TPA to storage came into force in May 2005 – this new legislation is to be complemented by a ministerial ordinance defining the specific terms according to which the gas sector must function, which has not yet been drawn up;
- in Sweden, a new Natural Gas Act entered into force on 1 July 2005 thus implying the opening of the storage market.

Even where the legal and regulatory framework is more mature, some changes are also expected:

- in France a decree on storage capacity allocation is in preparation;
- in Hungary, a decree on storage secondary markets is also expected;
- in Spain, secondary markets are not allowed by national legislation but this is expected to change in 2006.

There is therefore a legal basis for TPA to storage in all EU countries with storage capacity. However, the maturity of the legal and regulatory framework differs across countries.

## 4.3 Regulated vs negotiated access to storage

The Gas Directive leaves Member States with the option of whether a negotiated and/or regulated TPA regime should be implemented for storage. As a result, access regimes vary across the EU.

In Belgium, the Czech Republic and Hungary (storage used to supply the regulated market), Italy, Latvia, Poland, and Spain, tariffs (or their methodology) are set or approved by a relevant national regulatory authority (RNRA), or defined in national legislation before they enter into force.

In Austria, the Czech Republic and Hungary (storage used to supply the free market), Denmark, France, Germany, the Netherlands, Slovakia, Sweden and the UK, tariffs are set by the storage operators. However, in some of these countries, the energy regulatory authority (NRA) is involved to some extent in setting/approving tariffs for access to storage:

- in Austria, if storage tariffs are 20% higher than the average storage tariffs in the EU, the NRA may decide which cost-components are to be used to calculate tariffs;
- in Denmark, tariffs are set and enforced by the SSO, but the NRA may on its own initiative investigate and monitor modifications to tariffs, even in the absence of a complaint or dispute;
- in France, the NRA benchmarks tariffs with tariffs applied by other SSOs in the EU and can settle disputes ex-post;
- In Germany the NRA can take ex-post action in case of any abuse;
- in the Netherlands, the NRA sets indicative terms and conditions for TPA to storage;
- In Sweden the NRA is responsible for supervising storage tariffs ex-post;
- in the UK, the NRA is involved in dispute resolution: where agreement cannot be reached between a SSO and a third party over terms and conditions for access to storage, the NRA may, after consultation with interested parties, specify the terms on which the SSO should enter into an agreement with that third party; for one facility, the NRA monitors the undertakings and can veto any proposed changes to the Standard Storage Contract.

#### Comparison with the 2005 monitoring report results

No changes were observed in terms of which Member States use regulated vs negotiated access to storage.

The Danish NRA indicated that in addition to investigating tariffs, it had the power to modify them if it found contradictions with national legislation.

#### **4.4 Conflicts between the requirements of the GGPSSO and national legislation**

Answers received point to only 2 countries (Spain and Hungary) where there is a conflict between the requirements of the GGPSSO and national legislation:

- in Spain the NRA notes that there is a conflict concerning the GGPSSO requirements on secondary markets. At present, a secondary market of storage capacity is not considered in the national legislation;
- In Hungary the NRA indicates that a decree on secondary markets is expected but has not yet been passed.

#### Comparison with the 2005 monitoring report results

The Czech Republic's NRA no longer considers that there is a conflict regarding the transparency requirements of the GGPSSO (last year the NRA noted that according to national legislation, it was up to the SSO to decide if some information is commercially sensitive or not).

#### 4.5 SSOs included in the monitoring exercise

This monitoring report covers 31 SSOs across the EU.

14 SSOs participated in the monitoring exercise but are not included in the main report. 5 of these SSOs are not included because they are not effectively subject to the GGPSSO. The 9 remaining SSOs did not provide enough information in order to be adequately monitored. A summary of the 14 SSOs' responses is included in Annex 1.

Information on technical storage capacities<sup>15</sup>, available storage capacities<sup>16</sup> and numbers of customers<sup>17</sup> (provided by the 31 SSOs included in the scope of the monitoring exercise) is presented in the table below.

*Information on SSOs (as provided by SSOs in their responses to the questionnaire and verified by NRAs). SSOs were asked to provide answers reflecting the situation at 8 March 2006, with the option of updating data at 1 April 2005. Since some SSOs used the right to update figures, 1 April 2006 is taken as the date of reference when SSOs state both the situation at 8 March 2006 and 1 April 2006. Some SSOs maintained some information as confidential under GGPSSO 6.2. In EON Ruhrgas (DE) and MOL (HU)'s case the company's website was used to quantify how much capacity was available)*

Name of SSO	Country	Technical capacity (bcm)	Available capacity	Number of system users who own capacity rights (progress with previous report)
Stogit	Italy	12.9	No	37 (+3)
Gaz de France DGI	France	8.8	Yes (0.4% of technical capacity)	14 (last year, the data were confidential)
E.ON Ruhrgas	Germany	5	Yes (less than 5% of technical capacity)	<3
NAM	Netherlands	4.5 <sup>18</sup>	No	5
Wingas	Germany	4.2	No	>3
MOL	Hungary	3.4	Yes (1.8% of technical capacity)	3

<sup>15</sup> Technical storage capacity is the maximum storage capacity (injectability, deliverability and space) that the SSO can offer to storage users, excluding storage capacity for SSOs operational needs (GGPSSO Annex).

<sup>16</sup> Available storage capacity means the part of the technical storage capacity that is not contracted or held by storage users at that moment and still available to the storage users and is not excluded from TPA under Article 2(9) of the Gas Directive (GGPSSO Annex). Consistent with this definition it is assumed that SSOs did not indicate that there was available capacity solely because they commercialise unused day-ahead capacity. In principle answers are assumed not to have changed if an SSO has not sent in an updated 2005 questionnaire. However concerning capacity figures, it is clear from some answers that this can not be assumed, which explains why the size of some available capacities cannot be specified.

<sup>17</sup> As stated in Definition 21 of the GGPSSO, storage users include the TSO.

<sup>18</sup> Based on 6000 TJ working gas and m3 (35, 17; n), 4.33 Bcm of NAM's storage capacity is excluded from TPA and reserved for production and PSO-obligations.

Name of SSO	Country	Technical capacity (bcm)	Available capacity	Number of system users who own capacity rights (progress with previous report)
CSL	United Kingdom	3.2	Yes (only unbundled space)	39
Enagas	Spain	2.3	Yes (37% of technical capacity) <sup>19</sup>	13 (+1)
TIGF	France	2.3	No	8 (+ 4)
VNG	Germany	2.3	Yes (14.7% of technical capacity)	1
RWE Transgas	Czech Republic	2.1	Yes (less than 5% of technical capacity)	1
OMV <sup>20</sup>	Austria	2.1	Yes (42% of technical capacity)	5
RWE DEA	Germany	1.9	Yes (less than 5% of technical capacity)	2
NAFTA	Slovakia	1.7	No	2 (last year the data was confidential)
BEB	Germany	1.7	No	3 + 7 users that have booked capacity for the future (instead of 3 + 5 users that have booked capacity for the future)
EWE	Germany	1.2	No	5
RWE Energy&KST	Germany	0.9	Yes (less than 5% of technical capacity)	<3
DONG D&S	Denmark	0.8	Yes (2.6% of technical capacity)	6 (+1)
RAG	Austria	0.7	No	4
Fluxys	Belgium	0.7	No	4 (+1)
BP	Netherlands	0.5 <sup>21</sup>	Yes <sup>22</sup>	1 + secondary market buyers
E.ON Hanse	Germany	0.5	Yes	<3

<sup>19</sup> Due to capacity requirements for the new injection/withdrawal cycle ("thermal period") most of the available capacity will be booked during March.

<sup>20</sup> OMV Gas GmbH, in the following "OMV".

<sup>21</sup> 0.47 Bcm of BP's storage is excluded from TPA and reserved for production and PSO-obligations.

<sup>22</sup> Annually released with a minimum leadtime of 6 months.

Name of SSO	Country	Technical capacity (bcm)	Available capacity	Number of system users who own capacity rights (progress with previous report)
SSE	United Kingdom	0.3	Confidential	7
Edison Stoccaggio	Italy	0.3	No (Italian SSOs are required to offer all technical capacities)	8
Bayerngas	Germany	0.3	No	<3
E.ON Avacon	Germany	0.09	Yes	<3
swb Netze	Germany	0.09	No	1
Gas Union	Germany	0.08	No	<3
EEG	Germany	0.06	No	<3
STEAG	Germany	0.06	No	1
E.ON Thueringer	Germany	0.05	No	4

Comparison with the 2005 monitoring report results

- 8 SSOs reported having more system users than last year: Stogit (IT), Gaz de France DGI (FR)<sup>23</sup>, Enagas (ES), TIGF (FR), BEB (DE), DONG (DK), Fluxys (BE), BP (NL). The number of new users is however limited.
- 14 out of 31 SSOs indicated that they have available capacity, compared with 9 out of 33 SSOs last year: Gaz de France DGI (FR) (0.4% of technical capacity), E.ON Ruhrgas (DE) (less than 5% of technical capacity), MOL (1.8% of technical capacity), CSL (UK) , Enagas (ES) (37% of technical capacity), VNG (DE) (14.7% of technical capacity), RWE Transgas (CZ) (less than 5% of technical capacity), OMV (AT) (42% of technical capacity), RWE DEA (DE) (less than 5% of technical capacity), RWE Energy&KST (less than 5% of technical capacity), , DONG D&S (DK) (2.6% of technical capacity), EON Hanse (DE), BP (NL)., E.ON Avacon (DE).
- 16 out of 31 SSOs, representing 43.5% of the storage capacity monitored, reported that they had no available capacity, compared with 16 out of 33 SSOs last year, representing 62.7% of storage capacity monitored: Stogit (IT), NAM (NL), Wingas (DE), TIGF (FR), NAFTA (SK), BEB (DE), EWE (DE), RAG (AT), Fluxys (BE), Edison Stoccaggio (IT), Bayerngas (DE), , swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE).
- 1 SSO indicated that the question of whether capacity is available is confidential: SSE (UK).

<sup>23</sup> to be checked by the SSO.

The 1<sup>st</sup> monitoring report noted that storage capacities are generally contracted on a long-term basis, although there are exceptions (e.g. Italy). It also noted that according to a consumer association “some storage operators still claim to be 100% sold out for many years, in at least one case for more than the next 20 years”. This year’s monitoring exercise provided further information on the issue:

- Out of the 16 SSOs reporting no available capacity, 3 indicate that they will not have available capacity until 2007: BEB (DE), RAG (AT) and Gas Union (DE)<sup>24</sup>;
- 4 SSOs indicate that capacity is not available until 2008 or 2009: NAM (NL), Bayerngas (DE), swb Netze (DE), EEG (DE), STEAG (DE);
- 2 SSOs do not have available capacity until 2011 or later: EWE (DE), E.ON Thueringer (DE);
- 3 SSOs do not specify when capacity will become available: Stogit (IT), Wingas (DE); NAFTA (SK) (states that data is confidential);
- in some cases the date given assumes that current storage users will not extend their contracts.

#### 4.6 Legal status of the SSOs included in the scope of the study

The 31 SSOs covered in this report can be classified as follows:

- for 18 SSOs, **there is no legal separation between the SSO and other gas businesses of the overall company** including production and/or supply activities: Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), Wingas (DE), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), EWE (DE), RWE Energy&KST (DE), RAG (AT), E.ON Hanse (DE), Bayerngas (DE), E.ON Avacon (DE), swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE).
- 9 SSOs are separate from other gas activities of the overall company, at least in their legal form. However, the gas supplier or producer wholly owns or has a significant stake in the SSO:
  - 6 SSOs are 100% owned by a gas supplier or producer, including Stogit (IT), MOL (HU), CSL (UK), DONG D&S (DK), SSE (UK), Edison Stocaggio (IT);
  - NAFTA (SK) is 55.9% owned by SPP, Slovakia’s main gas transmission and distribution companies, and 40.271% owned by EON Ruhrgas. SPP is 51% owned by the Slovak Republic with the remaining 49 % split equally between E.ON Rhurgas and Gaz de France.
  - BEB Speicher (referred to as BEB in this report) (DE) is 100% owned by BEB. BEB also has a 100% stake in a gas transmission company. BEB is a 50/50 JV between Esso and Shell. Both companies are involved in gas marketing activities in Germany;
  - BP (NL) is the operator (therefore the SSO) of the Alkmaar Storage facility (which is owned by three partners: BPNE, Petro-Canada, Dyas). BP is a gas producer and supplier.

<sup>24</sup> TIGF, which allocates capacity yearly, will not have available capacity until 2007 either.

- 4 SSOs **operate as a “combined operator”** in the sense of Article 19 of the Gas Directive. The combined SSO and TSO is separate, at least in its legal form, from other gas businesses of the overall company:
  - Enagas (ES) is the Spanish TSO and SSO. Gas Natural (main gas supplier in Spain) has a minority stake in it;
  - TIGF (FR) is a wholly owned subsidiary of Total. Total has also set up Tegaz (100% owned) in order to develop gas supply activities;
  - OMV (AT) has a 50% stake in EconGas, the main gas supplier for large customers in Austria;
  - Fluxys (BE) is owned by the same shareholders as Distrigas, the main gas supplier in Belgium.
  
- **Ownership unbundling:** Enagas, already mentioned in the “combined operator” category, is unbundled from an ownership point of view.

Comparison with the 2005 monitoring report results

1 new SSO states that it is legally unbundled: NAFTA (SK).

The storage sector has also seen some M&A activity over the past year, e.g. with E.ON Ruhrgas’s ongoing acquisition of MOL and merger with Gasversorgung Thuringen.

## 5 Confidentiality Requirements

It is important that effective arrangements are put in place to ensure that confidentiality of information is maintained to ensure equal market conditions and to avoid distortions – particularly where the SSO is part of a vertically integrated company, which is generally the case throughout the EU. The GGPSSO consist of a number of requirements on the use of IT systems and information management and control – this section assesses compliance in the following areas:

- paragraph 5.1.a requires that SSOs keep databases related to storage operations separate, as a way to ensure that commercially sensitive information from storage users' account remains confidential;
- paragraph 5.1.b requires that...“staff working for any affiliate business (e.g. supply) must have no access to information which could be commercially advantageous such as details on actual or potential storage users, and is not made available to all market parties”;
- paragraph 5.1.c requires that...“if supply and storage are part of an integrated company, regardless of the internal structure of the company, or when there are no separate computer systems, specific confidentiality duties must be clearly defined. It shall be incumbent upon the companies concerned, upon request of the relevant national regulatory authority, to prove an effective establishment of firewalls between the SSO and the supply branch of the vertically integrated company. The arrangements to implement the above requirements should include a code of conduct for staff (including a compliance programme), supervised by a Compliance Officer.”;
- paragraph 5.1.d requires that...“cost effective solutions should be implemented to ensure that the SSO and the supply business are not located in the same place, provided that such a measure is proportionate”.

In addition the section assesses compliance with another requirement related to confidentiality, but covered last year in the Roles and Responsibilities section (requirement 1.3). Most SSOs covered in this monitoring report appear to be controlled by a gas producer and/or supplier and can be considered as part of a “vertically integrated company”<sup>25</sup>. Therefore, monitoring that they act in accordance with the principles of non-discrimination, transparency and competition is particularly important for these companies – although it is also relevant for companies that are “independent”.

- Paragraph (1.3) of the GGPSSO requires that...“In the case of a SSO being part of a vertically integrated company, the SSO should draw up a document setting out all the terms and conditions relating to storage use by the affiliate company to be made available to the relevant national regulatory authority upon request by 1 September 2005”. The Gas Directive does not provide that SSOs shall be legally unbundled from other gas supply and/or production of the company. The GGPSSO do require that terms and conditions related to storage use by an affiliate company are set out in a document – so that the relevant national authority is able to monitor that these terms and conditions are not discriminatory.

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<sup>25</sup> In the sense of article 2 (20) of the Gas Directive, “a vertically integrated company means a natural gas undertaking or a group of undertakings whose mutual relationships are defined in Article 3(3) of Council Regulation (EEC) N° 4064/89 of 21 December 1989 on the control of concentrations between undertakings and where the undertaking/group concerned is performing at least one of the functions of transmission, distribution, LNG or storage, and at least one of the functions of production or supply of natural gas”. This means that if a SSO is controlled by or control an undertaking/group performing at least one of the functions of production or supply of natural gas, it is considered as part of a vertically integrated company.

## 5.1 Assessment of compliance against 5.1a (Separate databases)

27 SSOs indicate that they keep databases related to storage operations separate: Stogit (IT), Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), Wingas (DE), MOL (HU), CSL (UK), TIGF (FR), VNG (DE), RWE Transgas (CZ), OMV (AT), NAFTA (SK), BEB (DE), EWE (DE), RWE Energy & KST (DE), DONG D&S (DK), Fluxys (BE), E.ON Hanse (DE), BP (NL), SSE (UK), Edison Stocaggio (IT), Bayerngas (DE) E.ON Avacon (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE),

24 of these SSOs indicate that they have a code of conduct or compliance programme supervised by a compliance officer that covers this obligation: Gaz de France DGI (FR), E.ON Ruhrgas (DE), Wingas (DE), MOL (HU), CSL (UK), VNG (DE), RWE Transgas (CZ), OMV (AT), NAFTA (SK), BEB (DE), EWE (DE), RWE Energy&KST (DE), DONG D&S (DE), Fluxys (BE), BP (NL), E.ON Hanse (DE), Edison Stocaggio (IT), NAM (NL), E.ON Avacon (DE), swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE).

3 SSOs indicate that they do not keep databases related to storage operations separate: RWE DEA (DE), RAG (AT), swb Netze (DE).

1 SSO says that the question is not applicable to it because it is not a vertically integrated undertaking as it only carries out transport activities. It stresses that it is a case of “enhanced” ownership unbundling because it is a 100% private company listed on the stock exchange and the equity share and voting rights of shareholders are both limited by law to 5%: Enagas (ES).

### Comparison with the 2005 monitoring report results

4 new SSOs indicate that they keep databases related to storage operations separate: NAM (NL), RWE Transgas (CZ), BEB (DE), STEAG (DE).

## 5.2 Assessment of compliance against 5.1b (No information available for staff working in supply)

28 SSOs indicate that they ensure that no information available to the SSO concerning its storage business is passed to any other part of any affiliate of the company in advance of being provided to all market participants: Stogit (IT), Gaz de France DGI (FR), E.ON Ruhrgas (DE), Wingas (DE), MOL (HU), CSL (UK), Enagas (ES), TIGF (FR), VNG (DE), RWE Transgas (CZ), OMV (AT), NAFTA (SK), BEB (DE), EWE (DE), RWE Energy&KST (DE), DONG D&S (DE), Fluxys (BE), SSE (UK), Edison Stocaggio (IT), NAM (NL), E.ON Avacon (DE), swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE), E.ON Hanse (DE), BP (NL).

23 of these SSOs indicate that they have a code of conduct or compliance programme supervised by a compliance officer that covers this obligation: Gaz de France DGI (FR), E.ON Ruhrgas (DE), Wingas (DE), MOL (HU), CSL (UK), TIGF (FR), VNG (DE), RWE Transgas (CZ), OMV (AT)<sup>26</sup>, NAFTA (SK), BEB (DE), RWE Energy&KST (DE), DONG D&S (DE), Fluxys (BE), BP (NL), E.ON Hanse (DE), Edison Stocaggio (IT), NAM (NL), E.ON Avacon (DE), swb Netze (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE).

<sup>26</sup> General compliance programme not explicitly related to storage, however.

1 SSO says that no code of conduct is necessary to ensure compliance with this requirement because it is ownership unbundled: Enagas (ES).

Among other measures aimed at protecting confidentiality of information, 3 SSOs mention legal unbundling: Stogit (IT), CSL (UK) Fluxys (BE); 2 SSOs mention ethical guidelines or restrictions imposed on shipper staff: RWE Transgas (CZ), Fluxys (BE); 2 SSOs mention offices with restricted access: RWE Transgas (CZ), SSE (UK); 2 SSOs mention the binding nature of code of the compliance programme: RWE Transgas (CZ), BEB (DE); 1 SSO mentions staff training : SSE (UK); 1 SSO mentions rules on staff conflicts of interests: BEB (DE), 1 SSO mentions outsourcing of control/dispatching operations: Gas Union (DE); 1 SSO mentions firewalls between IT systems: VNG (DE); 1 SSO mentions confidentiality clauses in storage contracts with customers: NAM (NL).

**3 SSOs indicate that they do not ensure that no information available to the SSO concerning its storage business is passed to any other part of any affiliate of the company in advance of being provided to all market participants: RWE DEA (DE), RAG (AT), Bayerngas (DE)).**

#### Comparison with the 2005 monitoring report results

2 new SSOs comply with the requirement and have a code of conduct/compliance programme supervised by a compliance officer that covers it: RWE Transgas (CZ), STEAG (DE).

### **5.3 Assessment of compliance against 5.1c (monitoring of confidentiality measures)**

The arrangements made by 11 SSOs to implement the GGPSSO requirements with regard to confidentiality are monitored or supervised by at least one relevant national regulatory authority: Stogit (IT), Gaz de France DGI (FR), MOL (HU), CSL (UK), TIGF (FR), Enagas (ES), OMV (AT)<sup>27</sup>, DONG D&S (DK), Fluxys (BE), SSE (UK) and Edison Stocaggio (IT).

An external audit assessing whether the SSO ensures that the confidentiality of information is protected was conducted for 10 SSOs: E.ON Ruhrgas (DE), Wingas (DE), VNG (DE), CSL (UK), BEB (DE), RWE Energy & KST (DE), DONG D&S (DK), E.ON Avacon (DE), Gas Union (DE), and E.ON Thuringer (DE).

Confidentiality measures for 11 SSOs are not monitored externally: NAM (NL), RWE Transgas (CZ), NAFTA (SK) (measures verified from time to time by auditors and contractual parties), EWE (DE), RAG (AT), E.ON Hanse (DE), BP (NL), Bayerngas (DE), swb Netze (DE), EEG (DE), STEAG (DE).

Monitoring/supervision by the relevant national regulatory authority varies greatly depending on the legal/regulatory framework in each Member State. In France, the relevant national regulatory authority is simply notified.

#### Comparison with the 2005 monitoring report results

1 new SSO indicates that compliance is monitored/supervised via external audit (in addition to supervision by relevant NRA): DONG D&S (DK).

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<sup>27</sup> The national regulator monitors the general compliance program of OMV, which is however not explicitly related to storage. The regulator carries out separate audits, aimed at identifying and preventing cross-subsidisation, during the tariff review procedure.

#### 5.4 Assessment of compliance against 5.1d (Cost effective measures for buildings)

14 SSOs operate from a separate building: Stogit (IT), Gaz de France DGI (FR), NAM (NL), CSL (UK), TIGF (FR), RWE Transgas (CZ), OMV (AT), BEB (DE), EWE (DE), DONG D&S (DK), Fluxys (BE), E.ON Hanse (DE), BP (NL), swb Netze (DE).

16 SSOs operate from the same building as the supply business: E.ON Ruhrgas (DE), Wingas (DE), MOL (HU), VNG (DE), NAFTA (SK), RWE DEA (DE), RWE Energy & KST (DE), RAG (AT), SSE (UK), Edison Stocaggio (IT), Bayerngas (DE), E.ON Avacon (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thuringer (DE).

1 SSO indicates that the question is irrelevant because it is ownership unbundled: Enagas (ES).

The GGPSSO mention that compliance against 5.1d is subject to “cost effective solutions”. Assessing whether a decision by a SSO to locate/not locate in a separate building is cost effective is not within the scope of this report.

##### Comparison with the 2005 monitoring report results

2 new SSOs indicate that they are located in a separate building: NAM (NL), BEB (DE).

#### 5.5 Assessment of compliance against 1.3 (Document related to storage use by the supply branch)

As stated in Chapter 3, for 18 SSOs, there is no legal separation between the SSO and other gas businesses of the overall company including production and/or supply activities: Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), Wingas (DE), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), EWE (DE), RWE Energy&KST (DE), RAG (AT), E.ON Hanse (DE), Bayerngas (DE), E.ON Avacon (DE), swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thuringer (DE),

Out of these 18 SSOs, 17 state they have drawn up a document setting out all the terms and conditions relating to storage use by the affiliate company to be made available to the relevant national regulatory and one states that it has not : RAG (AT)<sup>28</sup>.

All NRAs with non legally unbundled SSOs in their jurisdiction require that the document be made available to them except in Austria, where the request of these documents by the national regulatory authority is substituted by obligatory submission of storage contracts to the national regulatory authority, and in the Czech Republic, where the NRA monitors the implementation of the storage code issued by the SSO.

##### Comparison with the 2005 monitoring report results

1 new non-legally unbundled SSO indicates that it has developed the required document: NAM (NL).

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<sup>28</sup> The document required by the GGPSSO does not exist. The national regulatory authority, however, receives a copy of all storage contracts and is able to monitor that the non-discriminatory requirement is met.

1 new NRA with non-legally unbundled SSOs in its jurisdiction indicates that it requested that the required document be made available to it: BNetzA (DE).

## 5.6 Input from NRAs' National Storage Reports

EREGG's first monitoring report showed that compliance with confidentiality requirements of the GGPSSO needed further investigation, including assessment at national level to ensure that compliance could be monitored effectively.

Input at national level included an assessment of the quality of documents submitted setting out all the terms and conditions relating to storage use by the affiliate company. The Austrian NRA indicates that contracts it received are in line with the general requirements of non-discrimination contained in the GGPSSO, but specifies that in one case the SSO did not submit all contracts making overall assessment of compliance impossible. The Czech NRA states that the Storage Code of the SSO and its behaviour are in line with the GGPSSO. The German NRA could not provide a complete assessment of the documents because in most cases they were not forwarded to the NRA. Instead most SSOs sent to the NRA a copy of their general terms and conditions, which they specified apply equally to affiliates and non-affiliates.

NRAs were also consulted on the effectiveness of codes of conduct and compliance programmes, which they state have helped improve confidentiality levels in some cases.

NRAs noted that such measures were effective even when applied to companies with downstream affiliates.

They noted, however that the effectiveness the GGPSSO requirements in terms of confidentiality depends on the degree of integration between SSOs and their affiliates. This is because:

- codes of conduct and compliance programmes can in some cases include general rules that leave margins of discretion to the SSO – these margins may be exploited by incumbents, both in terms of passing information to affiliates and influencing investment decisions in case of congestion;
- In most cases it is difficult to assess actual compliance;
- the perception of discrimination by SSOs is still felt by storage users in spite of codes of conduct and compliance programmes;
- the existing requirements in relation to confidentiality are not sufficiently explicit to ensure that SSOs are taking appropriate steps in this area.

In parallel NRAs point out that it is also crucial they have appropriate powers to monitor the situation at SSOs and to take action if they are problems that are impacting on the market.

Finally, NRAs point out that there are still cases where codes of conduct and compliance programmes have not been adopted.

### **5.7 Overall assessment of compliance – Confidentiality requirements**

Results suggest that vertically integrated companies generally comply with the specific requirement of paragraph 1.3, relating to the document laying out terms and conditions for use of storage by affiliates. However in some cases a full assessment of compliance was impossible because SSOs did not provide the required documents to the NRA.

In addition only 8 SSOs representing 54% of the storage capacity monitored, appear to have taken steps to ensure that appropriate arrangements are in place to protect the confidentiality of information (separate databases, prohibition on passing privileged information onto affiliates, monitoring of confidentiality arrangements by NRA or external audit, separate buildings): Stogit (IT), Gaz de France DGI (FR), CSL (UK), TIGF (FR), OMV (AT), BEB (DE), DONG D&S (DK), Fluxys (BE). For as much as 44% of storage capacity monitored however, compliance is unclear or not complete.

Effective implementation of these requirements by SSOs is important, in particular where there is vertical integration, to ensure equal access is non discriminatory.

NRAs suggest, however, that even full implementation of the GGPSSO requirements may not suffice to ensure non-discrimination, particularly in the case of vertically integrated companies. Among other things they specify that existing requirements in relation to confidentiality are not sufficiently explicit to ensure that SSOs are taking appropriate steps in this area.

## 6 Necessary TPA services

In order to ensure a well functioning and flexible storage market SSOs need to provide a range of services on a fair and non-discriminatory TPA basis. This allows storage to play an effective role in the development of competition in gas across the EU. Storage is particularly important for new entrant suppliers as the availability of flexibility instruments is often seen as a prerequisite to enter the market – indeed in most national markets storage represents the major flexibility instrument for suppliers. A lack of flexible storage services could therefore lead to barriers to competition.

The GGPSSO include requirements to be implemented by 1 April 2005 relating to the provision of TPA services as follows:

- paragraph 3.1 requires that...“storage capacity not excluded from TPA pursuant to the Gas Directive, when technically and economically necessary for efficient access to the network, shall be offered to storage users on a non-discriminatory basis that facilitates competition and trade”. Paragraph 3.1 of the GGPSSO also requires that...“exclusion of storage capacity from TPA shall be approved or monitored by the relevant national regulatory authority”;
- paragraph 3.2 requires that... “any storage capacity needed for any PSO (Public Service Obligations) should be offered on a TPA basis; requirements of non discrimination still apply”;
- paragraph 3.3.a requires that...“the SSO shall offer in the primary market, [...], a menu of services, including [...] bundled services (SBU) of space and injectability/deliverability with determined technical ratios and with an appropriate size”;
- paragraph 3.4.a requires that...“service offered [...] shall be developed with proper consultation with storage users and take into account market demand”;
- paragraph 3.5 requires that...“the SSO shall offer a service which includes an obligation to allocate the gas which has been nominated [...]”;
- paragraph 3.7 requires that...“injection and withdrawal of gas should, in principle, be possible at any time”.

In addition the GGPSSO include requirements applicable as of 1 April 2006:

- paragraph 3.3 b: “the TSO [...] offer in the primary market [...] a menu of services, including [...] “ unbundled services supplementing SBUs at least for available storage capacity at the beginning of the storage year”;
- paragraph 3.3c: “the TSO [...] offer in the primary market [...] a menu of services, including [...] long-term ( $\geq 1$  year) and short-term services ( $<1$  year) down to a minimum period of one day”;
- paragraph 3.3 d: “the TSO [...] offer in the primary market [...] a menu of services, including [...]”both firm and interruptible storage services. The price of interruptible services may reflect the probability of interruption”.

The 1<sup>st</sup> monitoring report concluded that necessary TPA services were one of the areas where the level of implementation of the GGPSSO was not sufficient:

- in some countries it was unclear how much storage capacity was excluded from TPA, under art. 2(9) of the Gas Directive and for other reasons;
- some SSOs appeared not to comply with the GGPSSO - the report noted that some services to be offered by 1 April 2005 had not been implemented, in particular the obligation to allocate gas which has been nominated, and injection/withdrawal possible at any time;
- difficulties linked to IT investments put forward as a reason for delayed implementation were only verified by 2 NRAs;
- storage users and in particular new entrants did not appear to be always properly consulted.

### 6.1 Compliance against 3.1 (Capacity excluded from TPA)

Only 4 SSOs indicated that some capacity is excluded from TPA under art. 2(9) of the Directive<sup>29</sup>. These were Gaz de France-DGI (FR), DONG D&S (DK), Fluxys (BE) and Bayerngas (DE). In addition, in the Netherlands, the NRA has indicated that 70% of the capacity is excluded from TPA. In a number of cases the exclusion of capacity from TPA has not been approved or monitored by the NRA as follows:

- Austria (2 SSOs: OMV, RAG);
- France (TIGF);
- The Netherlands (2 SSOs: NAM, BP)<sup>30</sup>.

This does not mean that these SSOs are not implementing the requirements of the GGPSSO - but rather that there is no formal competence in national legislation for a relevant NRA to approve or monitor exclusion of storage capacity from TPA<sup>31</sup>. In these countries, it is essentially up to the SSO to determine how much capacity is offered to third parties. The reasons for TPA exclusions are also usually not made public.

However in the Netherlands information on capacity excluded from TPA is in the public domain<sup>32</sup>. There are also Member States where NRAs do have approval or monitoring powers with regard to TPA exclusions: Belgium, the Czech Republic, Germany, Italy, Spain, Denmark and the UK. In Hungary, the question is not applicable because there are no TPA exclusions.

#### Comparison with the 2005 monitoring report results

- 1 new Member State was found not to have TPA exemptions: Hungary.
- 1 new NRA indicated that it approves TPA exemptions: BNetzA (DE).

<sup>29</sup> In some countries storage capacity is not excluded under art 2(9) but TSOs and producers are granted an allocation priority. This is for example the case in Italy and Belgium.

<sup>30</sup> The exclusion from TPA is based on the Dutch Gas Act.

<sup>31</sup> However, in France CRE is competent to audit the TSOs unbundled accounts and therefore is able to monitor that the facilities reserved exclusively for transmission system operators in carrying out their functions (i.e. excluded from TPA) match the amount of storage capacity needed by the TSOs. In the Netherlands, the NRA sets indicative terms and conditions for TPA to storage.

<sup>32</sup> For more information: <http://www.shell.com/home/nam-nl/html/iwgen/commercieel/gasstorage/position%20paper.pdf>

- 1 new SSO indicated that some capacity is excluded from TPA under art. 2(9) of the Directive: DONG (DK).

## 6.2 Compliance against 3.2 (PSOs obligations)

Please see section 6.1.1.4 on PSO Capacity Allocations.

## 6.3 Compliance against 3.3.a (bundled services and pooling of nominations)

Only Stogit (IT) and Edison Stocccaggio (IT) do not offer bundled services – but in these cases the regulatory framework requires only the provision of unbundled services.

18 SSOs allow users to pool their nominations with a view to overcoming potential capacity thresholds: NAM (NL), MOL (HU), VNG (DE), OMV (AT), NAFTA (SK), BEB (DE), EWE (DE), RWE Energy&KST (DE), RAG (AT), Fluxys (BE), EON Hanse (DE), BP (NL), Bayerngas (DE), E.ON Avacon (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE).

For 8 SSOs the question of whether pooling is allowed is not applicable because there is no, or only a symbolic, capacity threshold: Stogit (IT), Gaz de France DGI (FR), Wingas (DE), CSL (UK), Enagas (ES), DONG D&S (DK), SSE (UK), Edison Stocccaggio (IT).

### Comparison with the 2005 monitoring report results

- 1 SSO that indicated it offered SBUs last year said it does not this year due to regulatory constraints: Edison Stocccaggio (IT).
- 1 new SSO indicated that it offers the ability to pool nominations with a view to overcoming potential capacity thresholds: STEAG (DE).
- 1 new SSO indicated that it has no capacity thresholds: Wingas (DE).

## 6.4 Compliance against 3.4.a (Consultation with storage users)

Consultation with all users, including new entrants is an important aspect of helping to ensure that access is provided on a non-discriminatory basis. Although some SSOs consult with users on the provision of services there are significant areas of concern – particularly in that new entrants appear to have less input into any consultation process in comparison to companies affiliated to the SSO. The following points emerge:

- 9 SSOs conduct consultations that are supervised by an RNRA: Stogit (IT), Gaz de France DGI (FR), CSL (UK), Enagas (ES), TIGF (FR), NAFTA (SK), DONG D&S (DK), Fluxys (BE); SSE; in France, the NRA (CRE) organised a public consultation on Gaz de France DGI and TIGF offer of services and subsequently made recommendations;
- 9 SSOs conduct consultation processes which are not supervised by an NRNA but are open and include some form of public announcement: NAM (NL), VNG (DE), BEB (DE), BP (NL), Edison Stocccaggio (IT), RWE Transgas ,swb Netze (DE), Gas Union (DE), EEG (DE);

- 7 SSOs conduct consultation processes that are not open and openly announced nor supervised by an NRNA but involve both actual and prospective users: E.ON Ruhrgas (DE), Wingas (DE), MOL (HU), OMV (AT), RWE Energy&KST (DE), E.ON Avacon (DE), E.ON Thueringer (DE);
- 6 SSOs only consult through bilateral contacts that only involve some users: RWE DEA (DE), EWE (DE), RAG (AT), E.ON Hanse (DE), Bayerngas (DE), STEAG (DE).

SSOs were asked when the last consultation occurred:

- 3 SSOs indicated that consultations are ongoing: CSL (UK), Edison Stocaggio (IT), E.ON Thueringer (DE)
- 12 SSOs indicated that the last consultation took place during the first quarter of 2006: Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), MOL (HU), TIGF (FR), VNG (DE), RWE Energy & KST (DE), RWE DEA (DE), BEB (DE), E.ON Hanse (DE), EEG (DE), E.ON Avacon (DE)
- 3 SSOs stated that the last consultation dated back to the fourth quarter of 2005: RWE Transgas (CZ), OMV (AT), Bayerngas (DE),
- 2 SSOs stated that the last consultation dated back to mid-2005: DONG D&S (DK), BP(NL)
- 2 SSOs stated that the last consultation dated back to 1999 or 2000: SSE (UK), swb Netze (DE)
- 2 SSOs stated that the last consultation dated back to the NRAs last regulation on storage: Stogit (IT), Enagas (ES)
- 4 SSOs stated that consultations take place on a regular basis: Wingas (DE), RAG (AT), EWE (DE), Fluxys (DE)
- Consultations that took place some years ago are not necessarily indicative of a situation where users have not been properly consulted. This is especially true in the UK, where users have the option to raise a Modification Proposal to the Uniform Network Code at anytime.

#### Comparison with the 2005 monitoring report results

- 1 new SSO has adopted a consultation process supervised by an NRA: DONG (DK)
- 4 new SSOs have adopted open consultation processes: Gaz de France DGI (FR), NAFTA (SK), Edison Stocaggio (IT) and DONG (DK)
- 1 new SSO stated that it only consults bilaterally with some users: RWE DEA (DE).

### **6.5 Compliance against 3.5 (Allocation of the gas which has been nominated)**

22 SSOs out of 31 declared they offer a service which includes the obligation for the SSO to allocate the gas which has been nominated: Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), MOL (HU), CSL (UK), Enagas (ES), TIGF (FR), VNG (DE), NAFTA (SK), RWE Transgas (CZ), BEB (DE), RWE Energy and KST (DE), DONG D&S (DK), RAG (AT), Fluxys (BE), E.ON Hanse (DE), BP (NL), SSE (UK), E.ON Avacon (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE).

For those that indicate that this requirement is not implemented some, including Stogit (IT), Wingas (DE) and Edison Stocaggio (IT) explained they do not offer such services mainly because it would not be consistent with national balancing rules or general market rules.

Whether additional costs for this service are recovered in the general tariffs is not clear. Only 2 SSOs state that they publish a separate charge for the provision of this service: NAFTA (SK) and E.ON Thueringer (DE).

Comparison with the 2005 monitoring report results

- 1 new SSO indicated that it offers a service that includes an obligation for the SSO to allocate the gas that has been nominated: STEAG (DE).
- 1 new SSO indicated that it charges separately for the service: NAFTA (SK).

### 6.6 Compliance against 3.7 (Injection and withdrawal at any time)

23 SSOs out of 31 indicate that they offer a service whereby injection and withdrawal of gas is possible at any time: Stogit (IT), Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), Wingas (DE), MOL (HU), CSL (UK), Enagas (ES), TIGF (FR), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), OMV (AT), BEB (DE), EWE (DE), RWE Energy and KST (DE), DONG D&S (DK), Fluxys (BE), E.ON Hanse (DE), SSE (UK), Edison Stocaggio (IT), E.ON Avacon (DE), EEG (DE).

For those SSOs that indicate non-compliance, some including NAM (NL), RAG (AT), BP (NL), STEAG (DE) and E.ON Thueringer (DE), explained that it is because of technical constraints.

Stogit (IT), Gaz de France DGI (FR)<sup>33</sup>, TIGF (FR), Enagas (ES) and BP (NL) make a separate and additional charge for this service. Some users have also indicated that MOL (HU) also makes an additional charge for this service.

Comparison with the 2005 monitoring report results

- 2 new SSOs indicated that they offer a service whereby injection and withdrawal of gas are possible at any time: NAM (NL), RWE DEA (DE).

### 6.7 Compliance against 3.3 b (Unbundled services offered)

21 SSOs indicated that they offer unbundled services supplementing SBUs at least for available storage capacity at the beginning of the year: Stogit (IT), Gaz de France DGI (FR), EON Ruhrgas (DE), Wingas (DE), MOL (HU), CSL (UK), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), OMV (AT), NAFTA (SK), BEB (DE), EWE (DE), RWE Energy & KST (DE), DONG D&S (DK), RAG (AT), Fluxys (BE), EON Hanse (DE), E.ON Avacon (DE), Gas Union (DE), EEG (DE),

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<sup>33</sup> Gaz de France offers a reversal of flow direction service free of charge within the framework of an annual credit of changes – eighteen or twenty four- according to the group of storage facilities.

All other SSOs (7) indicated that they did not offer the service. 3 SSOs explained that there was no demand for the service: SSE (UK), Bayerngas (DE), and BP (NL). 2 SSOs explained that the service was available on the secondary market: SSE (UK), NAM (NL). 1 SSO cited capacity constraints: E.ON Thuringer (DE). 1 SSO attributed delays to other IT requirements related to its Transport division: TIGF (FR). 1 SSO explained that it offers neither SBUs nor unbundled services supplementing SBUs, but unbundled services where that space and peak are not strictly related: Edison Stocaggio (IT). 1 SSO said that the requirement is not applicable because separately charged unused day-ahead injection and withdrawal capacity reflecting the cost of withdrawal and injection is made available to participants, who can arguably perform the same function as unbundled services: Enagas (ES). 1 SSO explained that it was conducting an internal study of implementation: STEAG (DE).

Comparison with the 2005 monitoring report results

- 8 new SSOs stated that they offer the service: EON Ruhrgas (DE), RWE DEA (DE), NAFTA (SK), EWE (DE), Fluxys (BE), E.ON Hanse (DE), E.ON Avacon (DE) and Gas Union (DE)..
- 1 SSO that said it offered the service last year stated that it does not this year: Edison Stocaggio (IT).

### **6.8 Compliance against 3.3 c (Long term and short term services offered)**

All SSOs offer long-term services except Stogit (IT) and Edison Stocaggio (IT), which are prohibited from doing so under Italy's regulatory framework.

24 SSOs indicate that they offer short-term services (<1 year) down to a minimum of one day: Stogit (IT), Gaz de France DGI (FR) (as of April 1 2006), E.ON Ruhrgas (DE), NAM (NL), Wingas (DE), MOL (HU), CSL (UK), Enagas (ES), TIGF (FR), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), OMV (AT), NAFTA (SK), BEB (DE), RWE Energy & KST (DE), DONG D&S (DK), Fluxys (BE), EON Hanse (DE), SSE (UK), Edison Stocaggio (IT), E.ON Avacon (DE), Gas Union (DE), EEG (DE).

All other SSOs (7) indicated they did not offer the service. 2 SSOs explain that there is no demand for the service: EWE (DE), BP (NL). 2 SSOs cited capacity constraints: E.ON Thuringer (DE) and RAG (AT). 1 SSO stated that it is conducting an internal study of implementation into short-term services: STEAG (DE). 1 SSO specified that the service is only available as part of individual agreements: Bayerngas (DE)

Comparison with the 2005 monitoring report results

- 13 new SSOs stated that they offer the service: Stogit (IT), Gaz de France DGI (FR) (as of April 1 2006), NAM (NL), MOL (HU), TIGF (FR), VNG (DE), RWE DEA (DE), NAFTA (SK), Fluxys (BE), EON Hanse (DE), E.ON Avacon (DE), EEG (DE).
- Problems mentioned last year linked to the provision of one-day short-term services were not reported this year.

## 6.9 Compliance against 3.3 d (Firm and interruptible services offered)

20 SSOs offer both firm and interruptible services, including Stogit (IT), Gaz de France DGI (FR) (as of 1 April 2006), EON Ruhrgas (DE), Wingas (DE), MOL (HU), CSL (UK), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), OMV (AT), NAFTA (SK), BEB (DE), RWE Energy & KST (DE), DONG D&S (DK), Fluxys (BE), EON Hanse (DE), SSE (UK), Edison Stocaggio (IT), Gas Union (DE), EEG (DE), E.ON Avacon (DE).

All other SSOs indicated that they do not offer the service: 2 SSOs cited capacity constraints<sup>34</sup>: RAG (AT) and E.ON Thueringer (DE), 3 SSOs cited a lack of demand: Wingas (DE), Bayerngas (DE) and BP (NL). 1 SSO said that the service was available on the secondary market NAM (NL). 1 SSO said that the requirement is not applicable because separately charged unused day-ahead injection and withdrawal capacity reflecting the cost of withdrawal and injection is made available to participants, which can arguably perform the same function as interruptible services: Enagas (ES). 1 SSO stated that it is conducting an internal study into the implementation of short-term services: STEAG (DE).

### Comparison with the 2005 monitoring report results

- 6 new SSOs stated that they offer the service: Gaz de France DGI (FR) (as of 1 April 2006), EON Ruhrgas (DE), NAFTA (SK), EON Hanse (DE), E.ON Avacon (DE), Gas Union (DE).

## 6.10 Input from NRAs' National Storage Reports

NRAs suggested that offering services was not enough. Services must also be offered in sufficient quantities. Facilities can be permanently congested, which lowers the availability of services.

NRAs welcome efforts to provide interruptible capacity but question whether interruptible capacity is sufficient to meet market needs.

In particular NRAs from Austria, France, Germany and Italy point out the important role that unbundled services play in meeting users' needs.

NRAs point out that it is important that there are open consultation processes actively involving new entrants to assess and meet market needs. NRAs confirm that their role in supervising such consultation processes varies and is sometimes limited.

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<sup>34</sup> These answers are difficult to interpret as selling interruptible services should in principle be possible even when there is no capacity.

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**6.11 Overall assessment of compliance – Necessary TPA services**

Compliance has improved:

- In some countries it remains unclear how much storage capacity is excluded from TPA, both under art. 2(9) of the Gas Directive and for other reasons. Although many NRAs have the power to approve or monitor TPA exemptions, a few do not, or may not approve or monitor all types of exemptions.
  - An increased number of SSOs now offer services that they did not last year, particularly services required as of 1 April 2006. However, some SSOs, and sometimes large SSOs, still do not provide some services requested in the GGPSSO. NRAs from France, Germany and Italy point out the important role that unbundled services play in answering market needs. Special attention should therefore be placed on compliance in this area.
  - A few SSOs have moved on to more open forms of consultations but the general situation remains unchanged. Approximately half of all SSOs surveyed conduct consultation processes that are neither open and publicly announced nor supervised by an RNRA, and 4 SSOs only conduct consultation processes that involve some users. NRAs underscore how important open consultation processes actively involving new entrants are to answering market needs. They confirm that their role in supervising such consultation processes varies and is sometimes limited.
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## 7 Storage Capacity Allocation and Congestion Management

It is crucial that storage capacity is allocated on fair and non-discriminatory basis to ensure that no distortions or barriers to entry are created within the market. This means setting out transparent rules on users' capacity rights.

Congestion within storage facilities can also arise and different methods are available to alleviate this issue. The GGPSSO contains requirements on these issues to provide guidance on how they should be implemented and used. These are:

- paragraph 4.1 requires that storage capacity allocation and congestion management shall ...“[...] facilitate the development of competition, [...] being flexible and capable of adapting to evolving market circumstances and discourage hoarding”; these procedures shall also “not create undue barriers to market entry and not prevent market participants, including new market entrants and companies with a small market share, from competing effectively”;
- paragraph 4.2 requires that “in case of congestion non discriminatory, market-based solutions shall be applied [...] and alternative solutions such as pro-rata mechanisms may be considered if they ensure equivalence in terms of non-discriminatory and competitive access [...]”;
- paragraph 4.4 requires that “The SSO shall actively endeavour to discourage hoarding and facilitate re-utilisation and trade of storage capacity by all reasonable means, including at least the offer on an interruptible basis of all unused capacity”.

Last year overall assessment of compliance stated that a number of SSOs have adopted anti hoarding procedures. Their effectiveness remained to be assessed. Also, it remained to be assessed whether and to what extent capacity allocation and congestion management mechanisms facilitate the development of competition and ensure the maximum availability and efficient use of storage – all as required by the GGPSSO.

### 7.1 Storage capacity allocation

#### 7.1.1 Assessment of compliance against 4.1

##### 7.1.1.1 Storage capacity allocation mechanism adopted by SSOs

In 9 countries - Belgium, Czech Republic, Denmark, Hungary, Italy, the Netherlands, Latvia, Spain, United Kingdom - capacity allocation arrangements are defined by national legislation and/or regulated by the relevant national regulatory authority.

In 6 countries - Austria, France, Germany, the Netherlands, Poland and Slovakia capacity allocation is designed by the SSO.

Different storage capacity allocation mechanisms have been adopted in Europe. They are presented by the SSOs as follows:

- first come first served<sup>35</sup> (9 SSOs): WINGAS (DE), CSL (UK), Enagas (ES), RWE DEA (DE), OMV (AT), NAFTA (SK), RAG (AT), SSE (UK), STEAG (DE),

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<sup>35</sup> A capacity allocation method under which the first storage user to have requested capacity shall be the first to be offered such capacity.

- first committed first served<sup>36</sup> (14 SSOs): E.ON Ruhrgas (DE), NAM (NL), VNG (DE), BEB (DE), EWE (DE), RWE Energy and KST (DE), DONG D&S (DK), EON Hanse (DE), Bayerngas (DE), E.ON Avacon (DE), swb Netze (DE), Gas Union (DE), EEG (DE), EON Thueringer (DE);
- capacity follows the customer<sup>37</sup> (4 SSOs): Stogit (IT), Gaz de France (FR), TIGF (FR), Edison Stocaggio (IT);
- market based (3 SSOs): Gaz de France DGI (FR), MOL (HU), CSL (UK);
- “other” mechanisms (9 SSOs): Stogit (IT), Gaz de France DGI (FR), MOL (HU), TIGF (FR), RWE Transgas (CZ), NAFTA (SK), Fluxys (BE), BP (NL). Edison Stocaggio (IT);

The large majority of SSOs (23 out of 31) are using the first come first serve or first committed first served mechanism. Some SSOs claim that first committed first served mechanism can be considered as a market based mechanism.

Gaz de France DGI (FR), MOL (HU) and CSL (UK) may allocate primary capacity according to market based mechanisms (auctions). CSL (UK) indicated that prices are the principal mechanism used. Auctions are used for relatively small quantities in the case of Gaz de France DGI (FR) and MOL (HU). For instance, in February 2006, Gaz de France DGI organised storage capacity auctions for the storage year 2006/2007. 400 GWh of new storage capacity were auctioned and sold. Gaz de France DGI has announced that any new capacity developed during the 2006/2007 storage year would be auctioned: 450 GWh have been auctioned in the beginning of April 2006.

- Stogit (IT), MOL (HU), Fluxys (BE) and Edison Stocaggio (IT) apply capacity allocation mechanism based on an order of priorities defined by law.
- NAFTA (SK) allocates capacity based on a series of criteria, mainly a combination of orders of priorities defined by law and first come first served
- Gaz de France DGI (FR) and TIGF (FR) apply rules for allocation of storage capacities that they have designed. These rules are provisional. New rules will be defined by ministerial decrees required under the law of 9 August 2004.
- RWE Transgas (CZ) indicated another capacity allocation depending of the duration of the contract.
- BP (NL)'s capacity allocation mechanism is an open season with reduced pro-rata if capacity is overbooked

The GGPSSO do not prescribe which capacity allocation should be used.

<sup>36</sup> A capacity allocation method under which the first storage user who commits (e.g. credit guarantees) for capacity shall be the first to be offered such capacity.

<sup>37</sup> In case of capacity allocation mechanisms linked (e.g. by law) to the supplies (mainly households) on the final market by the storage users, should the storage users itself lose any customer, he loses the linked capacity. Thus such capacity is granted to the new supplier (storage user).

It is difficult to assess if some provisions may prevent users from changing suppliers at any time of the year. It can be mentioned that in Italy and in France<sup>38</sup>, the law provides for the transfer of storage capacities to the new supplier if a customer changes supplier (“capacity follows the customer”).

#### Comparison with the 2005 monitoring report results

- Comparing with the last monitoring report. Gaz de France (FR) and MOL (HU) may allocate primary capacity according to market based mechanisms (auctions).
- The proportion of SSOs using first-come-first-served or first-committed-first-served mechanism versus market-based mechanisms remains largely unchanged.
- Comparing with the last monitoring report, improvements have been made concerning the access to storage primary capacity in terms of the numbers of users for 8 SSOs: Stogit (IT), Gaz de France DGI (FR), Enagas (ES), TIGF (FR), BEB (DE), DONG (DK), Fluxys (BE), BP (NL) (see the table below).
- 3 SSOs: VNG (DE), RWE Transgas (CZ), swb Netze (DE) still indicate only 1 user. BP (NL) mentions 1 user. 2 new SSOs - RWE DEA (DE), STEAG (DE) indicate 2 and 1 users.

#### **7.1.1.2 Design of storage capacity allocation mechanism**

18 SSOs: E.ON Ruhrgas (DE), Wingas (DE), VNG (DE), RWE DEA (DE), OMV (AT), BEB (DE), EWE (DE), RWE Energy&KST (DE), RAG (AT), E.ON Hanse (DE), SSE (UK), Bayerngas (DE), E.ON Avacon (DE), swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE) state that they have designed the storage capacity allocation mechanism they apply.

8 SSOs: Stogit (IT), Gaz de France DGI (FR) (temporary designed by SSO), MOL (HU) (in cooperation with SSO), Enagas (ES) (in cooperation with SSO), TIGF (FR) (temporary designed by SSO), NAFTA (SK) (in cooperation with SSO), Fluxys (BE), Edison Stoccaggio (IT), state that the storage capacity allocation mechanism has been (or will be for Gaz de France DGI (FR) and TIGF (FR)) designed by national legislation.

5 SSOs: NAM (NL), CSL (UK), RWE Transgas (CZ) (in line with transport rules), DONG D&S (DK), BP (NL) state that they have designed the storage capacity allocation mechanism supervised by NRA.

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<sup>38</sup> On 8 March 2006, CRE settled its first dispute with regard to access to storage. CRE asked Gaz de France DGI to review and amend the standard storage contract clauses with regard to the transfer of storage capacities to the new supplier if a customer changes supplier (“capacity follows the customer”). The gas-in-store price shall reflect the building of the stock i.e. as if the gas had been purchased every day at the market reference price, in order to be injected following a theoretical reference profile, and stored at the price displayed by Gaz de France DGI.

### 7.1.1.3 Duration of storage capacity allocation

During the last monitoring report, some users expressed concerns about the weaknesses of the capacity allocation mechanisms applied by some SSOs. According to a consumer association “*some storage operators still claim to be 100% sold out for many years, in at least one case for more than the next 20 years*”. Where long term arrangements for capacity allocation are combined with a lack of effective UIOLI provisions this may have the impact of foreclosing the storage market to potential new entrants.

As indicated in paragraph 6.8 of this report, storage capacity can be allocated on a yearly basis for 24 companies: Stogit (IT), Gaz de France DGI (FR) (as of April 1 2006), E.ON Ruhrgas (DE), NAM (NL), Wingas (DE), MOL (HU), CSL (UK), Enagas (ES), TIGF (FR), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), OMV (AT), NAFTA (SK), BEB (DE), RWE Energy & KST (DE), DONG D&S (DK), Fluxys (BE), EON Hanse (DE), SSE (UK), Edison Stocaggio (IT), E.ON Avacon (DE), Gas Union (DE), EEG (DE).

By contrast, multi annual capacity contracts can be signed with 29 SSOs (i.e. all SSOs except Stogit (IT) and Edison Stocaggio (IT)).

When multi annual capacity contracts are allowed, SSOs do not always publish capacity availability for the coming years. (see transparency section).

### 7.1.1.4 Application of PSO capacity allocation

In Austria, Germany and in the UK no party is responsible for PSOs according to national legislation.

With regard to other Member States, the remaining 12 SSOs declared that there are PSOs placed on SSOs, shippers or other market participants. For only 1 of these SSOs – NAM (NL) – does it appear that capacity for PSO is not offered on a TPA basis.

Concerning the PSO allocation process applied by some SSOs, it should be noted that:

- In Germany, in Austria, and in the UK, the law does not envisage a preferred capacity allocation for public service obligations.
- In France, according to the law, gas stocks shall be used in priority for meeting:
  - TSOs needs in carrying their functions (including balancing);
  - the needs of household customers, non-interruptible customers and other customers in charge of fulfilling some other general interest duties are met;
  - other PSOs, as provided for national legislation (some of these PSOs do not necessarily imply the use of gas stocks).
- In Italy, the Ministry of Industry sets the maximum storage capacity that can be booked for PSOs. Strategic storage is granted a higher priority than seasonal modulation storage.
- In Belgium, PSO allocation applies.
- In Slovakia, PSO allocation applies on SSO.
- In Spain, there is a public service obligation affecting the storage use but there is not relationship between the PSO and the capacity allocation procedures
- in Hungary, SSO is obliged to offer the capacity primarily for the public utility wholesaler in order to supply the household customers and the communal customers specified.

The GGPSSO also require that parties responsible for PSOs demonstrate that they do not use more storage than is required to meet their PSO obligation. The relevant NRA in Belgium and Hungary require that this be demonstrated by the party responsible for the PSO. In the rest of the EU (where PSOs exist) this requirement is not applicable/relevant for several different reasons - often specific to each country<sup>39</sup>.

*Information on storage capacity allocation and congestion management (as of 8 March 2006 or April 1 2006 if specified and as provided by SSOs in their answers to the questionnaires)*

Name of SSO	Number of system users who own capacity rights (progress with previous report) <sup>40</sup>	Available capacity	Mechanism to Offer on an interruptible basis unused capacity (e.g. day-ahead release of non-nominated )	Offer firm and interruptible capacity
Stogit (IT)	37 (+3)	No	No	yes
Gaz de France DGI (FR)	14 (confidential)	Yes (0.4% of technical capacity)	yes	yes
E.ON Ruhrgas	<3	Yes (less than 5% of technical capacity)	No	yes
Wingas (DE)	>3	No	yes	yes
MOL (HU)	3	Yes (1.8% of technical capacity)	No	yes
CSL (UK)	39	Yes (only unbundled)	Yes	yes
Enagas (ES)	13 (+1)	Yes (37% of technical capacity) <sup>41</sup>	No, but firm day-ahead release	No
TIGF (FR)	8 (+4)	No	No, in place in September 2006	No, in place in 2006
VNG (DE)	1	Yes (14.7% of technical capacity)	Yes	yes
RWE Transgas (CZ)	1	Yes (less than 5% of technical capacity)	Yes	yes

<sup>39</sup> In Spain and in the Slovak Republic, the NRA is not competent for such a requirement, according to national legislation; in France, there is no obligation to book storage to satisfy the relevant PSOs; in Italy national law provides for the maximum amount of storage capacity for PSOs; in the Czech Republic the national legislation requires that any storage user proves its capacity needs; in Denmark it has been reported that there is no incentive to oversubscribe.

<sup>40</sup> As stated in Definition 21 of the GGPSSO, storage users include the TSO.

<sup>41</sup> Due to capacity requirements for the new injection/withdrawal cycle ("thermal period") most of the available capacity will be booked during March.

Name of SSO	Number of system users who own capacity rights (progress with previous report) <sup>40</sup>	Available capacity	Mechanism to Offer on an interruptible basis unused capacity (e.g. day-ahead release of non-nominated )	Offer firm and interruptible capacity
OMV (AT)	5	Yes (42% of technical capacity)	No <sup>42</sup>	yes
RWE DEA (DE)	2	Yes (less than 5% of technical capacity)	No answer	yes
BEB (DE)	3 + 7 users that have booked capacity for the future (instead of 3 + 5 users that have booked capacity for the future)	No	No	yes
NAFTA (SK)	2	No	Yes <sup>43</sup>	Yes
EWE (DE)	5	No	No	yes
RWE Energy&KST (DE)	<3	Yes (less than 5% of technical capacity)	Yes	yes
DONG D&S (DK)	6 (+1)	Yes (2.6% of technical capacity)	Yes	yes
RAG (AT)	4	No	No	yes
Fluxys (BE)	4 (+1)	No	No, in place in October 2006	No, in place in 2006
BP (NL)	1+ secondary market buyers (instead of 0)	Yes <sup>44</sup>	Yes	No
E.ON Hanse (DE)	<3	Yes	Yes	yes
SSE (UK)	7	Confidential	Yes	yes
Edison Stocaggio (IT)	8	No	Yes	yes
Bayerngas (DE)	<3	No	Yes	No
NAM (NL)	5	No	Yes	No
E.ON Avacon (DE)	<3	yes	Yes	No
swb Netze (DE)	1	No	Yes	No
Gas Union (DE)	<3	No	Yes	yes

<sup>42</sup> Other congestion management existing; lack of UIOLI justified by lack of long term congestion on primary market.

<sup>43</sup> NAFTA offers unused capacity on interruptible basis, but the specifics “ day-ahead” and “non-nominated” do not apply.

<sup>44</sup> Annually released with a minimum leadtime of 6 months.

Name of SSO	Number of system users who own capacity rights (progress with previous report) <sup>40</sup>	Available capacity	Mechanism to Offer on an interruptible basis unused capacity (e.g. day-ahead release of non-nominated )	Offer firm and interruptible capacity
EEG (DE)	<3	No	Yes	yes
STEAG (DE)	1	No	No	No
E.ON Thuringer (DE)	4	No	Yes	yes

## 7.2 Congestion management

### 7.2.1 Available capacity

- 16 out of 31 SSOs, representing 43.5% of the storage capacity monitored, state that no capacity is available at 8 March 2006 or when specified at 1 April 2006: Stogit (IT), E.ON Ruhrgas (DE), NAM (NL), Wingas (DE), TIGF (FR), NAFTA (SK), RAG (AT), EWE (DE), Fluxys (BE), Edison Stoccaggio (IT), Bayerngas (DE), swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thuringer (DE).
- 14 SSOs declare that capacity is available: Gaz de France DGI (FR), (0.4% of technical capacity), EON Ruhrgas (DE) (less than 5% of technical capacity), MOL (HU) (1.83% of technical capacity), CSL (UK) (only unbundled space), Enagas (ES) (37% of technical capacity), VNG (DE) (14.7% of technical capacity), RWE Transgas (CZ) (less than 5% of technical capacity), RWE DEA (DE) (less than 5% of technical capacity), RWE Energy&KST (less than 5% of technical capacity), OMV (AT), DONG D&S (DK) (2.6% of technical capacity), BP (NL), E.ON Avacon (DE), EON Hanse (DE).
- 1 SSO: SSE (UK) says that available capacity is confidential.

Given the importance of storage as a flexibility tool<sup>45</sup> and the fact that there is only limited storage capacity availability in Europe as demonstrated in the above table, the existence of robust storage congestion management tools appears important to ensure no capacity hoarding can occur.

### 7.2.2 Assessment of compliance against 4.2 (Congestion management mechanism)

4 SSOs have not set up any congestion management mechanism :Wingas (DE)<sup>46</sup>,RWE DEA (DE), RAG (AT), swb Netze (DE).

<sup>45</sup> See as well: European Commission Competition DG, Energy Sector Inquiry Interim Report, Feb 2006.

<sup>46</sup> Wingas's congestion mechanisms remain an open question as the SSO has never received a request for capacity during a time of congestion.

23 SSOs declared that, in case of congestion, pro-rata mechanisms are applied to ensure non discrimination between users: Stogit (IT), Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), CSL (UK), ENAGAS (ES), VNG (DE), RWE Transgas (CZ)<sup>47</sup>, BEB (DE), NAFTA (SK), EWE (DE), DONG (DK), Fluxys (BE), E.ON Hanse (DE), BP (NL), SSE (UK), Edison Stocaggio (IT), Bayerngas (DE), E.ON Avacon (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thuringer (DE),

6 SSOs use other solutions: MOL (HU) (market based), TIGF (FR) (priority rights depending on the type of customers supplied), OMV (AT) (market based day ahead rate), RWE Energy and KST (DE) (type of request), RAG (AT) (in case congestion should occur, a procedure will be set up by the SSO well in time<sup>48</sup>).

Congestion mechanisms have been used by 10 SSOs: Stogit (IT), Gaz de France DGI (FR), CSL (UK), Enagas (ES), OMV (AT), NAFTA (SK), DONG (DK), Fluxys (BE), SSE (UK), Edison Stocaggio (IT).

Some SSOs include in their congestion management procedures the provision of interruptible services by April 2006 and the use of secondary market trading with in some cases bulletin boards.

#### Comparison with the 2005 monitoring report results

1 new SSO DONG (DK) complies with the requirement to establish a congestion management mechanism.

### **7.2.3 Design of congestion management mechanism**

4 SSOs have not set up any congestion management mechanism: Wingas (DE)<sup>49</sup>, RWE DEA (DE), RAG (AT), swb Netze (DE) (see above).

19 SSOs: E.ON Ruhrgas (DE)<sup>50</sup>, MOL (HU), CSL (UK), VNG (DE), RWE Transgas (CZ), OMV (AT), BEB (DE), NAFTA (SK), EWE (DE), RWE Energy&KST (DE), DONG D&S (DK), E.ON Hanse (DE), BP (NL), SSE (UK), E.ON Avacon (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thuringer (DE) state that they have designed themselves congestion management mechanism.

.. 1 SSO did not answer: Bayerngas (DE).

7 SSOs: Stogit (IT), Gaz de France DGI (FR) (temporary designed by SSO), NAM (In consultation with regulator), Enagas (ES), TIGF (FR) (temporary designed by SSO), Fluxys (BE) (in cooperation with SSO), Edison Stocaggio (IT), state that the congestion management mechanism has been (or will be for Gaz de France DGI (FR) and TIGF (FR)) designed by national legislation.

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<sup>47</sup> Priority is first given according to the type of contract. Pro-rata constitutes the 2<sup>nd</sup> "layer" of the congestion mechanism.

<sup>48</sup> Congestion already existing.

<sup>49</sup> See footnote 41.

<sup>50</sup> E.ON Ruhrgas indicates that the customer is requested to offer capacity to third parties if the customer has not used the capacity held available for the customer in a period of several consecutive years.

### 7.3 Measures to facilitate re-utilisation and trade of storage capacity and preventing capacity hoarding

During the last monitoring report, the majority of users highlighted that the overall impact of the GGPSSO on congestion management was weak.

Where long term arrangements for capacity allocation are combined with a lack of effective UIOLI provisions this may have the impact of foreclosing the storage market to potential new entrants.

#### 7.3.1 Assessment of compliance against 4.4 (related to the offer on an interruptible basis of all unused capacity)

16 SSOs out of 31 reported to comply with the existence of UIOLI rules for unused nominated capacities (day-ahead interruptible capacity release of non-nominated capacities): Gaz de France DGI (FR), Wingas (DE), CSL (UK), Enagas (ES) (firm daily capacities), VNG (DE), RWE Transgas (CZ), NAFTA (SK), RWE Energy and KST (DE), DONG (DK), E.ON Hanse (DE), SSE (UK), Edison Stocaggio (IT), E.ON Avacon (DE), Gas Union (DE), EEG (DE), E.ON Thuringer (DE).

15 SSOs: Stogit (IT), E.ON Ruhrgas (DE), NAM (NL), MOL (HG), TIGF (FR), RWE DEA (DE), OMV<sup>51</sup> (AT), BEB (DE), Fluxys (BE), Bayerngas (DE), EWE (DE), RAG (AT), BP (NL), swb Netze (DE), STEAG (DE) have not put in place daily interruptible capacity release as of April 2006.

TIGF (FR) and Fluxys (BE) declared that day-ahead interruptible capacity release of non-nominated capacities will be available respectively in September and October 2006. They state that the main constraint is to adapt the IT system to assure that user's rights are properly calculated every day.

#### Comparison with the 2005 monitoring report results

2 new SSOs Gaz de France DGI (FR) and NAFTA (SK) comply with the day-ahead interruptible capacity release of non-nominated capacities requirement (as of April 2006).

### 7.4 Input from NRAs' National Storage Reports

In general, when multi annual capacity contracts have been signed, the duration for which capacity is allocated or available cannot be extracted from published information. Availability is usually only indicated for the duration of the current year. This situation has to change rapidly: all potential users need to know on a non-discriminatory basis the past and future booked and available capacity and historic use of booked capacity.

It remains to be assessed whether or not the anti-hoarding mechanisms used are appropriate to users' needs. According to regulators, some storage system operators do not have explicit measures for congestion management. This issue is important to new market participants taking into account that European underground storage facilities show hardly any available storage capacity.

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<sup>51</sup> OMV (AT) offers a short-term product ("day ahead rate") to meet very short-term congestion which is however merely a balancing tool. Other congestion management existing; lack of UIOLI justified by lack of long term congestion on primary market.

As there is only limited storage capacity availability in Europe as demonstrated in the table in the part 6.1.1.4, the existence of robust storage congestion management tools appears crucial to ensure no capacity hoarding can. Effective UIOLI arrangements need to be in place at all storage facilities. It is clear that requirements in the GGPSSO relating to this issue are still not fully implemented by all SSOs.

This may be particularly problematic where there are long-term contracts in place that is having the effect of constraining the availability of capacity/access to storage facilities across the EU. SSOs must also do more with respect to congestion management and in particular give priority to the establishment of UIOLI in the short term (daily unused capacity).

However, certain SSOs are currently in the process of developing offers of short term interruptible services planned later in 2006, based on the temporarily unused capacity, in order to lower potential capacity hoarding.

#### **7.5 Overall assessment of compliance – Storage capacity allocation and congestion management**

First come first served and first committed first served rules are the main capacity allocation mechanism used by SSOs (representing 48% of the storage capacity monitored).

43.5% of monitored storage capacity is fully booked, and for another 38% of monitored storage capacity less than 5% of technical capacity is available. The DG COMP interim report show that long-term congestions and long-term bookings are widespread. Therefore congestion management procedures are essential.

NRAs have also indicated that when multi annual capacity contracts have been signed (representing 51% of the storage capacity monitored), the duration for which capacity is allocated or available is not published.

The large majority of SSOs (19 out of 31) have designed congestion management mechanisms themselves. Some storage system operators do not have explicit measures for congestion management.

Few SSOs have improved their procedure for congestion management in line with the GGPSSO requirements in particular through the establishment of UIOLI rules for unused nominated capacities. Some companies still do not offer interruptible capacities.

A full assessment of capacity allocation and congestion management needs to take into account users views.

## 8 Transparency requirements

Publication of data is crucial to the efficient and transparent operation of the storage market as it helps to ensure that market players can take commercial decisions with full knowledge of information. The GGPSSO contain a number of requirements in relation to publication of commercial and operational information<sup>52</sup>:

- 6.4: tariffs and main commercial conditions including prices for standard services published
- 6.5.c: tariff calculator
- 6.5.a : capacity data published
- 6.5.b : aggregated inflows and outflows and historical utilization rates
- 6.8: publication of all planned maintenance periods

With regard to the 2005 assessment on commercial information, the report stated that “there seems to be a reasonable level of transparency on commercial terms applied by most SSOs in Europe. However, some SSOs operating under a negotiated TPA regime, did not implement these basic requirements of the GGPSSO”.

With regard to the 2005 assessment on operational information, the report stated that “there is very limited transparency on operational storage data in Europe. To date, the necessary GGPSSO requirements have not been implemented”.

### 8.1 Commercial information

In the case of regulated access, it is a requirement of the Directive that access to storage is provided for “on the basis of published tariffs and/or other terms and obligations for use of that storage”<sup>53</sup>. In the case of negotiated access, “Member states shall require storage system operators and natural gas undertakings to publish their main commercial conditions for the use of storage, linepack and other ancillary services within the first six months following implementation of this Directive and on an annual basis every year after”<sup>54</sup>.

In many countries (for instance in France, Germany, Italy, Netherlands, Spain, Belgium, Austria), national legislation also requires that certain standards in terms of transparency are met.

The GGPSSO provide a list of commercial information to be published by SSOs on the Internet. Publication of relevant data is crucial to ensure that market players can take commercial decisions with full knowledge of information.

#### 8.1.1 Assessment of compliance against 6.4 (tariffs and main commercial conditions including prices for standard services published)

Paragraph 6.4 of the GGPSSO requires that the main commercial conditions (including prices of standard services) are to be published.

<sup>52</sup> Requirement 6.6.a on publication of methods of determining available storage capacity and 6.6.b publication of TSO’s pre-emptive rights have not been treated in 2006 as they do not show significant results with regard to 2005.

<sup>53</sup> Article 19.4 of Directive 2003/55/EC of 26 June 2003.

<sup>54</sup> Article 19.3 of Directive 2003/55/EC of 26 June 2003.

More specifically, the GGPSSO recommend that “in rTPA, the tariffs and tariff methodologies for each service offered shall be published ex ante. In nTPA, the main commercial conditions including the prices for standard services must be published and updated” (GGPSSO 6.4.a). This information should be made public “in a timely manner in national language and in English on the Internet. Information shall be disclosed in a meaningful quantitatively clear and easily accessible way and on a non-discriminatory basis” (GGPSSO 6.1).

All or most of the information required by the GGPSSO is available for 26 SSOs: Stogit (IT), Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), Wingas (DE), MOL (HU), CSL (UK), Enagas (ES), TIGF (FR), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), OMV (AT), BEB (DE), NAFTA (SK), RWE Energy & KST (DE), DONG D&S (DK), Fluxys (BE), E.ON Hanse (DE), BP (NL), SSE (UK), Edison Stocaggio (IT), Bayerngas (DE), E.ON Avacon (DE), Gas Union (DE), EEG (DE).

However, although this requirement is also contained in the Directive, the tariffs and the main commercial conditions are not published by 5 SSOs (date of reference: 1 April 2006): EWE (DE), RAG (AT), swb Netze (DE), STEAG (DE) (prices not published), E.ON Thuringer (DE),

For 6 SSOs, the information is not (or only partially) published in English: Wingas (DE), Enagas (ES), TIGF (FR), Edison Stocaggio (IT), Bayerngas (DE), E.ON Avacon (DE).

#### Comparison with the 2005 monitoring report results

4 additional SSOs publish commercial information: NAFTA (SK), Bayerngas (DE), Gas Union (DE) and E.ON Avacon (DE).

### **8.1.2 Assessment of compliance against 6.5c (tariffs calculator)**

According to the GGPSSO, user-friendly instruments for calculating charges for a specific service (e.g a tariff calculator) should be available.

11 SSOs have implemented that requirement: Gaz de France DGI (FR), E.ON Ruhrgas (DE), Wingas (DE), MOL (HU), CSL (UK), VNG (DE), RWE Transgas, OMV (AT), BEB (DE), NAFTA (SK), RWE Energy & KST (DE).

20 SSOs have not: Stogit (IT), NAM (NL), Enagas (ES), TIGF (FR), RWE DEA (DE), EWE (DE), DONG D&S (DK), RAG (AT), Fluxys (BE), E.ON Hanse (DE), BP (NL), SSE (UK), Edison Stocaggio (IT), Bayerngas (DE), E.ON Avacon (DE), swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thuringer (DE).

#### Comparison with the 2005 monitoring report results

3 additional SSOs publish commercial information: NAM (NL), MOL (HU), NAFTA (SK).

### **8.2 Operational information**

The GGPSSO provide a list of operational information to be published by SSOs. Publication of relevant data is crucial to the efficient and transparent operation of the storage market as it helps to ensure that market players can take commercial decisions with full knowledge of information.

### 8.2.1 Assessment of compliance against 6.5.a (capacity data published)

20 SSOs say that the information (technical, available and contracted or held storage capacity) is published: Stogit (IT), Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), MOL (HU), CSL (UK), Enagas (ES), TIGF (FR), VNG (DE), OMV (AT), BEB (DE), NAFTA (SK), EWE (DE), DONG D&S (DK), Fluxys (BE), E.ON Hanse (DE), BP (NL), Edison Stocaggio (IT), E.ON Avacon (DE), swb Netze (DE).

However, some of these SSOs simply display on their website that there is no available capacity, without specifying until when capacity is sold out. They include in particular EWE (DE), E.ON Hanse (DE), E.ON Avacon (DE), swb Netze (DE) and

E.ON Ruhrgas (DE), RWE DEA (DE) and RWE Energy & KST (DE), have set up a traffic light system.

9 SSOs do not publish –or only partially- the information: Wingas (DE), RWE Transgas (CZ), RAG (AT), SSE (UK), Bayerngas (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE).

#### Comparison with the 2005 monitoring report results

10 additional SSOs publish capacity information E.ON Ruhrgas (DE), TIGF (FR), VNG (DE), OMV (AT), NAFTA (SK), DONG (DK), Edison Stocaggio (IT), E.ON Avacon (DE), swb Netze (DE), E.ON Hanse (DE).

### 8.2.2 Assessment of compliance against 6.5.b (aggregated inflows and outflows and historical utilization rates)

6 SSOs publish this information (aggregated inflows and outflows **and** historical utilization rates) : Gaz de France DGI (FR), TIGF (FR), CSL (UK), Enagas (ES), BEB (DE), DONG D&S (DK).

4 SSOs say that the information is published. However, publication does not meet exactly the GGPSSO standards: Stogit (IT)<sup>55</sup>, NAM (NL)<sup>56</sup>, OMV (AT)<sup>57</sup> and BP (NL)<sup>58</sup>.

- 21 SSOs do not publish the information: E.ON Ruhrgas (DE), Wingas (DE), MOL (HU), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), NAFTA (SK), RAG (AT), EWE (DE), Fluxys (BE), RWE Energy & KST (DE), E.ON Hanse (DE), SSE (UK)<sup>59</sup>, Edison Stocaggio (IT)<sup>60</sup>, Bayerngas (DE), E.ON Avacon (DE), swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE), E.ON Thueringer (DE),):

<sup>55</sup> Aggregated inflows and outflows not published via an online information system.

<sup>56</sup> NAM indicated that it is contractually obliged not to publish some data.

<sup>57</sup> Data published on a monthly basis comparison not meaningful as only historically used capacities published, no comparison with historical committed capacities.

<sup>58</sup> Published under Dutch Mining Act by NITG but on a monthly basis. For more info: dinoloket@nitg.tno.nl

<sup>59</sup> The information on aggregate nominations on the day is available to anyone that accesses the website and signs up to the storage service contract.

<sup>60</sup> Data made available to the regulator.

- 14 SSOs have explained that they have less than three users. They include, E.ON Ruhrgas (DE), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), NAFTA (SK), RWE Energy & KST (DE), E.ON Hanse (DE), SSE (UK)<sup>61</sup>, Bayerngas (DE), E.ON Avacon (DE), swb Netze (DE), Gas Union (DE), EEG (DE), STEAG (DE).
- 10 SSOs mentioned that at least one user requested, via a correspondence, that SSO does not publish information about the aggregate use of storage<sup>62</sup>: E.ON Ruhrgas (DE), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), NAFTA (SK), RWE Energy & KST (DE), E.ON Hanse (DE), E.ON Avacon (DE), EEG (DE), STEAG (DE.);
  - 4 SSOs mentioned that no users requested, via a correspondence, that SSO does not publish information about the aggregate use of storage: SSE (UK), Bayerngas (DE), swb Netze (DE), Gas Union (DE);
  - 7 SSOs stated they notified the relevant national regulatory authority concerning the non publication of the aggregate use of storage: RWE Transgas (CZ), SSE (UK), NAFTA (SK), E.ON Hanse (DE), E.ON Avacon (DE) swb Netze (DE), EEG (DE)
  - 7 SSOs stated they did not: E.ON Ruhrgas (DE), VNG (DE), RWE DEA (DE) , RWE Energy & KST (DE), Bayerngas (DE), Gas Union (DE), STEAG (DE).
- The 7 other SSOs, including Wingas (DE), MOL (HU), EWE (DE), RAG (AT), Fluxys (BE), Edison Stoccaggio (IT), E.ON Thueringer (DE) do not publish although they have more than three users<sup>63</sup> and therefore do not comply.

The reasons of non-publication explained by SSOs are the commercial sensitivity of information or substantial IT development needed to avoid potential market abuse.

#### Comparison with the 2005 monitoring report results

Last year, only one SSO published the data. In 2006, 5 more publish the data: Gaz de France DGI (FR), TIGF (FR), ENAGAS (ES), BEB (DE), DONG D&S (DK).

### **8.2.3 Assessment of compliance against 6.8 (publication of all planned maintenance periods)**

It is important that the market is aware that in advance of planned maintenance to storage facilities so that they can take commercial decisions.

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<sup>61</sup> SSE specifies, however, that non publication of aggregated data is largely information technology (IT) -driven and not due to customer numbers.

<sup>62</sup> In principle this is not constitute a valid justification for non-compliance.

<sup>63</sup> For more information:

- 1 SSO, Fluxys (BE) mentioned that at least one user requested, via a correspondence, that SSO does not publish information about the aggregate use of storage;
- 6 SSOs mentioned that no users requested, via a correspondence, that SSO does not publish information about the aggregate use of storage: Wingas (DE), MOL (HU), RAG (AT), Edison Stoccaggio (IT), E.ON Thueringer (DE), EWE (DE);
- 3 SSOs stated they notified the relevant national regulatory authority concerning the non publication of the aggregate use of storage: RAG (AT), Fluxys (BE), (), Edison Stoccaggio (IT) and
- 4 SSOs stated they did not: Wingas (DE), MOL (HU), EWE (DE) (confidential information), E.ON Thueringer (DE).

19 SSOs say that they publish at least once a year, by pre-announced deadline, all planned maintenance periods that might affect storage users' rights: Stogit (IT), Gaz de France DGI (FR), NAM (NL)<sup>64</sup>, Wingas (DE), MOL (HU), CSL (UK), Enagas (ES)<sup>65</sup>, TIGF (FR)<sup>66</sup>, VNG (DE), RWE Transgas (CZ), OMV (AT), BEB (DE), NAFTA (SK), DONG D&S (DK), Fluxys (BE), BP (NL), E.ON Hanse (DE), Edison Stocaggio (IT)<sup>67</sup>, E.ON Avacon (DE)<sup>68</sup>.

12 SSOs do not publish the information: E.ON Ruhrgas (DE), RWE DEA (DE), EWE (DE), RAG (AT)<sup>69</sup>, STEAG (AT), RWE Energy & KST (DE), SSE (UK), Bayerngas (DE), swb Netze (DE), Gas Union (DE), EEG (DE), E.ON Thueringer (DE).

All SSOs surveyed say that they have implemented the other requirement of paragraph 6.8 of the GGPSSO ("where unplanned disruptions in access to the storage services occur, the SSO shall ensure current system users are notified of that disruption as soon as possible").

#### Comparison with the 2005 monitoring report results

This item was not addressed last year.

### **8.3 Input from NRAs' National Storage Reports**

#### **8.3.1 Commercial information**

Several regulators have monitored whether enough commercial information is available and have indicated that progress has been made in this area.

#### **8.3.2 Operational information**

Regulators have recommended that operational information definitions are reviewed to improve their specificity to help ensure consistency of application across the EU.

As noted by regulators, consistency in the information that is published is crucial. The GGPSSO include definitions in the annex that SSOs should use, but it is clear that consistent definitions are not being used – for example:

- Available storage capacity means the part of the technical capacity that is not contracted or held by storage users at that moment and is still available to the storage users for firm and interruptible services, and is not excluded from TPA under Article 2(9) of the Gas Directive;
- Technical storage capacity is the maximum storage capacity (injectability, deliverability and space) that the SSO can offer to storage users, excluding storage capacity for SSOs operational needs.

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<sup>64</sup> Not on the internet.

<sup>65</sup> In national language only.

<sup>66</sup> In national language only.

<sup>67</sup> In national language only.

<sup>68</sup> In national language only.

<sup>69</sup> Austrian Control Area Manager (resp – inter alia- for demand of balancing energy and management of network flows) is informed by RAG.

Therefore, considering that “available capacity equals technical capacity minus contracted or held capacity” matches the definitions in the GGPSSO only if there is no capacity excluded from TPA.

Similarly, there seems to be some confusion regarding the calculation of the “historical utilization rate”. Regardless of whether this data is published or not, only 6 SSOs (GDF (FR), CSL (UK), TIGF (FR), BEB (DE), DONG D&S (DK), Edison Stocaggio (IT)) have provided a clear answer to this question<sup>70</sup>. The following methods for calculating historical utilization rates data are used by those SSOs:

- The current stock for the start of a gas day plus injected quantities through the storage injection meter point minus withdrawn quantities through the storage withdrawal meter point. The result of this calculation is a “level of stock” rather than a “utilization rate”. However, the rate can be easily derived if the relevant capacity data are available, which is the case for this SSO;
- The ratio between nominations and contracted or held capacity;
- The ratio between nomination and technical capacity.

There is no definition of “historical utilization rate” in the GGPSSO. However, according to the GGPSSO “unused capacity is any part of the technical capacity contracted or held by users that has not been nominated for use and is not excluded from TPA under Article 2(9) of the Gas Directive”. This definition establishes a clear relationship between nominations and contracted or held capacities. Therefore, methods to calculate the historical utilization rate would be to establish the ratio between nominations and technical capacity or flows and technical capacity

Regulators have pointed out that SSOs should be required to publish the level of gas-in-store rather than a historical utilization rate.

Regulators think that the GGPSSO are not sufficiently prescriptive in terms of the information that should be made available on planned maintenance. Also, when unplanned interruptions occur, it is crucial that information is made available to the market (not just storage users) as soon as possible on the nature of the interruption.

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<sup>70</sup> Question 6.2 of the questionnaire dated 8 February 2006.

### 8.3.3 Overall assessment of compliance - Transparency requirements

Progress has been made with regard to commercial information and capacity data. However, the average level of information is still far below what is required by the GGPSSO, in particular with regard to the aggregate use of storage. To make a complete assessment of this requirement storage users' views are necessary.

#### *Commercial information*

There is more transparency on the commercial terms applied by European SSOs. However, there is still room for improvement to meet the GGPSSO requirements and the Directive. This would also concern some of the more detailed GGPSSO requirements, which are not necessarily reflected in national legislation. For instance, some SSOs should take steps to ensure that all the information is published not only in national language, but also in English, and that users have access to a storage tariff calculator.

#### *Operational information*

Some SSOs use traffic lights. The GGPSSO explicitly require numerical data. Publishing the information using a system of traffic lights is not acceptable.

#### *Capacity data*

Comparing with last year, a significant number of additional SSOs publish capacity data. However, these very important requirements may be implemented in the letter, but not always in the spirit of the GGPSSO. The data published by SSOs sometimes do not meet the GGPSSO definitions, and it is unclear that the information is published in a "timely manner" in order to meet users' needs.

#### *Aggregate use of storage*

Some progress has been made since the last monitoring exercise as 5 new companies publish this information. However 22 SSOs out of 31 do not publish aggregated inflows and outflows and historical utilization rates. 7 SSOs do not publish this information although they have more than three users.

Regarding the implementation of the "three-minus rule", the GGPSSO state that "*information should always be published by the SSO when three or more users have been allocated capacity by virtue of contractual or any other similar arrangements, excluding capacities the portion used for production operations and, excluding capacities reserved exclusively for transmission system operators in carrying out their functions*". As stated in the previous monitoring report, **this clearly does not automatically exclude the publication of data when a SSO has less than three users. The non-publication is an option.**

Where published, the data, again, are not always consistent and cannot be compared easily.

## 9 Secondary market

The first monitoring report stated that “Secondary markets are very important for the development of competition in storage services as they can help to improve the availability and use of storage capacity which is a prerequisite for the development of gas to gas competition - especially in cases of congested storage capacity.”

The GGPSSO include the following requirements:

- 9.1: the SSO shall allow bundled and unbundled services to be freely tradable, (...), develop standardised contracts and procedures,(...) and recognize the transfer of rights (...). SSOs must allow the new owner to aggregate such storage capacity with its existing storage capacity (...)
- 9.2: Once there is a market demand SSOs shall provide cost-reflective services
- 9.3: SSOs shall meet the following timetable
  - 1 April 2005: bulletin board without title transfer
  - 1 April 2006: implementation of the other provisions to allow for title transfer. Where substantial IT developments are needed the implementation of the other provisions shall be no later than 1 December 2006

The first monitoring report concluded that “the development of secondary markets of storage capacities in the EU is still limited. This further reduces the use of storage capacity.”

### 9.1 Assessment of compliance against 9.1 (allow and facilitate bundled and unbundled services to be freely tradable)

#### 9.1.1 Trade of bundled and unbundled services

The trade of bundled and unbundled services was required for 1<sup>st</sup> April 2005. On 1<sup>st</sup> April 2006:

- 22 SSOs say they have fully implemented this requirement: Stogit (IT), EON Ruhrgas (DE), MOL (HU), CSL (UK), VNG (DE), RWE Transgas (CZ), RWE DEA (DE), OMV(AT), BEB (DE), NAFTA (SK), EWE (DE), RWE Energy (DE), DONG (DK), RAG (AT), Fluxys (BE), BP (NL), SSE (UK), Edison Stocaggio (IT), E.ON Avacon (DE), Gas Union (DE), EEG (DE), E.ON Thueringer (DE);
- 9 SSOs indicate they do not allow secondary trading or allow only trading of bundled services: Gaz de France DGI (FR)<sup>71</sup>, NAM (NL)<sup>72</sup>, Wingas (DE)<sup>73</sup>, Enagas (ES)<sup>74</sup>, TIGF (FR)<sup>75</sup>, E.ON Hanse (DE), Bayerngas (DE)<sup>76</sup>, swb Netze (DE), STEAG (DE).

<sup>71</sup> Only trading of bundled services, this SSO will comply by the end of 2006.

<sup>72</sup> NAM is looking into developing secondary trading between current users (there are currently 5).

<sup>73</sup> No answer.

<sup>74</sup> In Spain, secondary trading of capacity is not permitted by law.

<sup>75</sup> Only trading of bundled services, this SSO will comply by the end of 2006.

<sup>76</sup> No secondary trading.

In Austria, RAG indicated that it prefers to concentrate on services in the primary market until the secondary market develops; OMV considers that since there is enough capacity on the primary market, no further steps are necessary to facilitate the development of secondary markets.

#### Comparison with the 2005 monitoring report results

Three additional company allow the trade of bundled and unbundled services: EON Ruhrgas (DE), E.ON Avacon (DE) and EEG (DE).

#### **9.1.2 Trade of gas in store**

The GGPSSO do not require explicitly to allow and facilitate secondary trading of gas in store. However, as the issue has been raised in several instances by storage users, the question was asked of SSOs in the 2006 questionnaire.

All SSOs allow to trade gas in store with the exception of 5 SSOs: Wingas (DE), swb Netze (DE), STEAG (DE), E.ON Thueringer (DE)<sup>77</sup>, Bayerngas (DE)<sup>78</sup>.

#### **9.1.3 Aggregation of capacity**

The GGPSSO also requested SSOs to allow the new owner to aggregate secondary storage capacity with its existing storage capacity operationally:

- 23 SSOs indicate that they comply: Stogit (IT), Gaz de France DGI (FR), EON Ruhrgas (DE), NAM (NL), MOL (HU), CSL (UK), VNG (DE), RWE Transgas, OMV (AT), RWE DEA (DE), BEB (DE), NAFTA (SK), RWE Energy & KST (DE), EWE (DE), RAG (AT), DONG (DK), BP (NL), EON Hanse (DE), SSE (UK), Edison Stoccaggio (IT), Gas Union (DE), EEG (DE), E.ON Thueringer (DE);
- 8 do not : Wingas (DE), Enagas (ES), TIGF (FR)<sup>79</sup>, Fluxys (BE)<sup>80</sup>, E.ON Avacon (DE)<sup>81</sup>, Bayerngas (DE), swb Netze (DE) and STEAG (DE);

#### **9.1.4 Implementation of standardized contracts and procedures**

With regard to the implementation of standardized contracts and procedures:

- 21 SSOs indicate that they comply: Stogit (IT), Gaz de France (FR), EON Ruhrgas (DE), MOL (HU), CSL (UK), VNG (DE), RWE Transgas (CZ), OMV (AT), BEB (DE), NAFTA (SK), EWE (DE), RWE Energy (DE), DONG (DK), Fluxys (BE), E.ON Hanse (DE), BP (NL), SSE (UK), Edison Stoccaggio (IT), Gas Union (DE), EEG (DE), E.ON Thueringer (DE).
- 10 SSOs indicate that they do not comply: NAM (NL), Wingas (DE), TIGF (FR), RWE DEA (DE), Enagas (ES), RAG (AT), Bayerngas (DE), EON Avacon, swb Netze (DE), STEAG (DE);

<sup>77</sup> service is being developed.

<sup>78</sup> Bayerngas did not answer this question and is therefore assumed not to offer the service.

<sup>79</sup> This SSO indicated that it will introduce it in 2006.

<sup>80</sup> This SSO indicated that it will introduce it in 2006.

<sup>81</sup> This SSO indicated that it will introduce it in 2006.

### 9.1.5 Recognition of transfer of rights where notified by storage users

18 SSOs meet this requirement: Stogit (IT), EON Ruhrgas (DE), NAM (NL), Wingas (DE), MOL (HU), CSL (UK), VNG (DE), RWE Transgas (CZ), RWE (DEA), NAFTA (SK), BEB (DE), RWE Energy & KST (DE), DONG (DK), RAG (AT), BP (NL), SSE (UK), Edison Stocaggio (IT), EEG (DE),

8 SSOs do not meet the requirement: Gaz de France DGI (FR)<sup>82</sup>, TIGF (FR)<sup>83</sup>, Fluxys (BE)<sup>84</sup>, EON Hanse (DE)<sup>85</sup>, Bayerngas (DE), Gas Union (DE)<sup>86</sup>, EON Avacon (DE)<sup>87</sup>, STEAG (DE),

5 SSOs do not consider the requirement applicable and can be assumed not to have implemented it: ENAGAS (ES), OMV (AT), EWE (DE), swb Netze (DE), EON Thueringer (DE).

### 9.1.6 Combined implementation of all GGPSSO 9.1 requirements

14 SSOs meet all the requirements of GGPSSO 9.1 and allow trade of gas in store: Stogit (IT), EON Ruhrgas (DE), MOL (HU), CSL (UK), VNG (DE), RWE Transgas (CZ), BEB (DE), NAFTA (SK), RWE Energy (DE), DONG (DK), BP (NL), SSE (UK), Edison Stocaggio (IT), EEG (DE), 17 SSOs do not meet all the requirements of GGPSSO 9.1: Gas de France DGI (FR), NAM (NL), Wingas (DE), Enagas (ES), TIGF (FR), OMV (AT), RWE DEA (DE), EWE (DE), RAG (AT), Fluxys (BE); EON Hanse (DE), Bayerngas (DE), EON Avacon (DE), swb Netze (DE), Gas Union (DE), STEAG (DE), EON Thueringer (DE).

## 9.2 Assessment of compliance against 9.2 (implementation of an electronic platform or a bulletin board)

On 1<sup>st</sup> April 2006:

- Only 11 SSOs say that they have implemented this requirement: Gaz de France DGI (FR), E.ON Ruhrgas (DE), NAM (NL), CSL (UK), VNG (DE), RWE Transgas (CZ), BEB (DE), NAFTA (SK), RWE Energy (DE), DONG (DK), SSE (UK);
- 20 SSOs do not have a bulleting board for secondary trading: Stogit (IT),Wingas (DE), MOL (HU), Enagas (ES), TIGF (FR), OMV (AT), RWE DEA (DE), EWE (DE), RAG (AT), Fluxys (BE), E.ON Hanse (DE), BP (NL), Edison Stocaggio (IT), Bayerngas (DE), EEG (DE), EON Avacon (DE), swb Netze (DE), Gas Union (DE), STEAG (DE), E.ON Thueringer (DE), has indicated that it would comply in 2007;

Stogit (IT) does not have any bulletin board due to new regulatory commitments. TIGF (FR) publishes the name of shippers, with their authorization, willing to exchange capacity on the secondary market (see above).

<sup>82</sup> transfer already recognised for bundled capacity, for unbundled capacity by 1 December 2006.

<sup>83</sup> will be implemented during year 2006.

<sup>84</sup> will be implemented during year 2006.

<sup>85</sup> will be implemented by 1 December 2006.

<sup>86</sup> will be implemented during year 2006.

<sup>87</sup> will be implemented by 1 December 2006.

### Comparison with the 2005 monitoring report results

Only one additional SSO has an electronic bulletin board (NAFTA (SK)).

### **9.3 Other measures taken by SSOs to facilitate secondary trading**

Most SSOs have not taken particular steps to facilitate secondary trading of storage capacity.

Recent steps taken by SSOs include :

- Gaz de France DGI (GDF) publishes user's reference – subject to their authorization- so that potential buyers/sellers can easily be identified;
- VNG has launched a secondary storage internet capacity trading platform (STORE-X) on February 2006, around 15 users of this platform were recorded but no trade. Two other SSOs mentioned their willingness to participate to this system including E.ON Ruhrgas.

### **9.4 Number of trades**

A very limited number of users traded capacity between 15 March 2005 and 8 March 2006: Stogit (IT) reported more than 20, Gaz de France DGI (FR), 6 users and 9 trades; E.ON Ruhrgas (DE), 4; MOL (HU), 2; CSL (UK), 10, Edison Stoccaggio (IT), 2; E.ON Hanse (DE), 1.

RWE Transgas (CZ), RWE DEA (DE), RWE Energy (DE), Bayerngas (DE) and BP (NL) did not answer or answered that the number of trades was unknown.

### **9.5 Input from NRAs' National Storage Reports**

In the first monitoring report, regulators stressed the importance of secondary trading to better meet storage users needs.

Regulators have pointed out the limited development of secondary markets (in most countries) and some possible reasons for this being the case:

- the gas market is not liquid enough;
- the law does not allow for secondary trading ;
- allocation rules in the primary market may impede secondary trading;
- some storage operators only allow secondary trade after being consulted;
- some SSOs see no need to promote secondary trading as they have available storage; capacity.
- some SSOs do not permit trade of gas in store.

**9.6 Overall assessment of compliance – Secondary markets**

In the last monitoring report, the regulators have stressed the importance of secondary markets, their limited development and the need to fulfil the GGPSSO requirements in this respect. These secondary markets are however still limited.

This lack of development can be explained by the small number of storage users in the primary market. However, SSOs must implement measures to facilitate secondary trading: companies having implemented an electronic platform or a bulletin board are still a minority although this measure facilitates greatly trade and is a requirement of the GGPSSO. In addition, some companies do not allow to trade gas in store that is a major impediment to capacity trading.

## Annex 1 – IMPLEMENTATION OF THE GGPSSO BY OTHER SSOs NOT INCLUDED IN THE MONITORING REPORT

### a. Facilities exempt from TPA

#### Latvijas Gaze (Latvia)

Latvia meets the criteria of an emerging gas market, the Latvian parliament passed the Energy Law providing for postponement of market opening (including access to the storage) till January 1, 2010.

The Latvijas Gaze's answers to the 2006 questionnaire are presented hereafter:

- The Energy Law charges the Regulator to approve the code prepared by the system operator on utilization of the storage, which shall be objectively grounded, economically reasonable, fair, equal, open and accessible to all system users and candidates who request access to the respective system.
- No storage code and no storage contracts are in place in Latvia.
- There is no available capacity till December 31, 2015. Moreover, in order to meet growing demands it has been discussed possibility of expansion of the storage from 2.3 Bcm of working gas to 3.2 Bcm. If expansion will take place there might be available capacity, however there is no firm decision regarding expansion made.
- All tariffs (gas transmission, storage, distribution and sales) in Latvia are regulated and are available together with other relevant information on the web page of Public Service Regulation Commission and web page of Latvijas Gaze.
- There is no legal act that regulates capacity allocation mechanism, however, the priority for capacity allocation is for volumes of gas used for needs of Latvian customers because under current supply scheme in the period of the highest demand of gas (autumn, winter, spring) gas customers in Latvia can receive gas only from the storage and not from the pipeline.
- There had not been cases of contractual congestion and currently there are no plans for solutions. To avoid congestion situations in the future expansion of the storage in the future is considered

#### Transco LNG (UK)

Transco LNG Storage operates 4 LNG facilities in the UK (2,807 GWh). Transco LNG Storage has an exemption from TPA provisions under national legislation (the Gas Act). For that reason, Transco LNG Storage is not included in the main analysis.

However Transco LNG responded both to the 2005 and 2006 questionnaires, which has allowed ERGEG to gather information on the SSO:

- Transco LNG has a standard storage contract. The last consultation regarding the contract, or Uniform network Code, dates back to some time, but users can raise a Modification Proposal to change terms at any time. The standard storage contract is approved by the Great Britain's NRA Ofgem;
- Capacity will be available from 1 May 2006, following the annual tender process held in March;

- Transco complies with the transparency requirements of the GGPSSO (all the data, including operational information, are published as required by the GGPSSO);
- Transco LNG offers all services required by the GGPSSO except short term services, which are however impossible to implement due to clearly defined technical constraints. Services offered are described in the Uniform Network Code and subject to consultation and regulatory approval;
- The capacity allocation mechanism is regulated and included in the Uniform Network Code approved by Ofgem. The TSO has the right to pre-emption in order to satisfy their Transporter obligations. The remaining capacity is offered to users via auctions;
- A Use-it-or-lose-it (UIOLI) mechanism is used to discourage hoarding and facilitate reutilisation and trade of storage capacity, and secondary trading via bulletin board is facilitated;
- Confidentiality is unlikely to be an issue as the SSO is completely separate from a supply and/or production company. In any case, databases are kept separate, a code of conduct and a compliance programme are implemented and the effectiveness of these arrangements are implemented by Ofgem;
- Transco LNG's, electronic bulletin board and efficient account management facilitate secondary trading. Transco LNG allows the title transfer for both bundled and unbundled capacities, allows the new owner of capacity to aggregate such capacity operationally, and allows trade of gas-in-store. The rules addressing secondary capacity trading are included in the Uniform Network Code, and are therefore published and approved by NRA Ofgem. During the year 15 March 2005 to 8 March 2006, there were 41 secondary capacity trades by 8 counterparties.

#### **b. Facilities not yet fully operational**

##### **Deutsche Essent (Germany)**

Deutsche Essent's facility is very new and was therefore not taken into account in the main analysis<sup>88</sup>. However Deutsche Essent did answer the 2006 questionnaire, which allowed ERGEG to gather some information on the facility.

- Deutsche Essent is in the process of creating a standard storage contract which will involve proper consultation with users and will be forwarded to the German NRA BNetzA;
- capacity has been entirely booked by the facility's sole user until January 2010. The user has the option to extend its contract for another 5 years. currently zero;
- commercial terms and condition, as well as operational data required by the GGPSSO will be published on Essent's website as of 1 April 2006. Some information is confidential due to the "minus 3 users" rule;

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<sup>88</sup> The facility is (also) connected to the Dutch grid and can be used for storage services in the Dutch market.

- Deutsche Essent offers all services required by the GGPSSO except for short term and interruptible services. Essent's facility is small (maximum working capacity of 186 mcm), which it states would make the offer of all services disproportional; the facility is also very new;
- for capacity allocation, Deutsche Essent uses the "allocate as nominated" rule; since Deutsche Essent only has one customer which has booked capacity until 2010, it does not use priority rules;
- although a code of conduct has not yet been implemented, Deutsche Essent plans on implementing the code of conduct currently being developed by GSE; this code of conduct will cover the obligations to have separate databases and to develop IT systems separately and the prohibition on passing privileged information to affiliates; a compliance officer will be put in place to supervise the code of conduct;
- Deutsche Essent does not allow title transfer for both bundled and unbundled capacities, does not allow the new owner of such capacity to aggregate capacity operationally, and does not allow trade of gas-in-store; rules for secondary capacity trading are still under construction and for the time being secondary capacity trading has not begun.

### **E.ON Gas Sverige (Sweden)**

E.ON Gas Sverige, referred to as Sydkraft AB in the first monitoring report, is the holder of the only storage facility in Sweden at Skallen (8.5 mcm of working gas). As was reported in the first monitoring report, Skallen was initially used as a demonstration facility due to some measurements and availability problems. It is planned to open for effective commercial use on 1 May 2006. E.ON Gas Sverige therefore has not made any changes in their routines and implementation regarding the GGPSSO up until 1 April 2006. After the commercial opening of the storage E.ON Sverige has stated that they, as far as possible considering the size of the storage, will act according to the GGPSSO and to improve services. Tariffs for access to the storage facility will be regulated ex-post by STEM, Sweden's national regulatory authority.

### **c. National legislation regarding storage not yet finalised**

#### **POGC (Poland)**

On 3 May 2005 new legislation providing the TPA rule in the field of storage services entered into force in Poland. The act also authorized the Minister of the Economy to determine in secondary legislation specific terms and conditions of functioning of the gas sector. This ordinance has not been drafted so far and therefore the conditions referring to the use of storage capacities are not defined in detail at this stage.

On the 1st February 2006, POGC was granted a license for storage activities. The company, however, does not yet have the status of Storage System Operator, as specifies in the Energy Law. POGC has contracts for "gas delivery to the client gate", it does not provide storage services on the basis of separate contracts. Currently, the preparatory works necessary to establish an internal division responsible for storage are done. The company is also working on storage code and standard storage contract.

The answers to the 2006 questionnaire are presented hereafter:

- POGC is a main player in production, import and trade of natural gas in Poland. The SSO is not a separate legal entity yet. Databases are not kept separate.
- All storage capacity is used for gas production processing and for the needs of POGC's clients who signed contracts for "gas delivery to the client gate".
- There is no standard storage contract/storage code yet. Up till now there were no consultations with users on this subject.
- There is no capacity allocation mechanism. Although there is no standard storage contract, in case of physical congestion the following suctions are adopted: interruptible supply contracts and reductions in supplies to large customers according to contractual arrangements.
- In January 2006, POGC SA filed a tariff application with the Energy Regulatory Office (national regulatory authority) which specified a bundled service tariff. The tariff was approved on the 17<sup>th</sup> of March and will be valid until the end of December 2006.
- There is no secondary market yet.\*

**d. GGPSSO may not apply to facilities**

**Nova Naturgas (Sweden)**

Nova Naturgas is the owner of a transmission pipeline and thus holds line-pack. The new Swedish Natural Gas Act entered into force on 1 July 2005 and line-pack is now equal to storage according to Swedish legislation. However, Nova Naturgas argues that the GGPSSO are not adjusted for the specificities of line-pack and the Swedish market model, and that some of the questions in the questionnaire therefore are irrelevant and that some of the answers might be misleading if these circumstances are not taken into consideration. Nova Naturgas therefore was not taken into account in the main analysis. However, Nova Naturgas answered both the 2005 and 2006 questionnaire, which has enabled ERGEG to gather some information on the SSO.

- Access to Nova Naturgas' storage system is provided on a regulated basis; as of 1 March 2006, there was one user;
- Nova Naturgas has a standard storage contract which involved an open consultation with a sort of public announcement;
- technical capacity amounts to 3.5 mcm. Some of this capacity may be available;
- commercial terms and conditions are published on Nova Naturgas' website; the publication of operational data is the responsibility of the System Balance Provider and Nova Naturgas therefore considers related questions not applicable; some data is confidential due to the "minus 3 users" rule;
- Nova Naturgas offers bundled services and injection/withdrawal possible at any time; there are no minimum capacity thresholds for these services and the services are not separately charged; the other services required by the GGPSSO would not be consistent with the balancing regime of the interconnected gas system and are not applicable in the case of linepack; users were last consulted with regard to services in December 2005;

- Nova Naturgas communicates available capacities on a daily basis to the System Balance Provider, which offers capacity to individual Balance Providers; a first come first served mechanism designed by the System Balance Provider and subject to open consultation is applied to allocate capacity. In case of congestion a pro-rata mechanism designed by the System Balance Provider is applied; Nova Naturgas considers questions concerning the release of unused day-ahead capacity as not applicable;
- Nova Naturgas has a code of conduct covering the obligation to keep databases related to storage separate and monitored by a relevant NRA; Nova Naturgas states that the question of whether privileged information is passed to affiliates is not applicable;
- Nova Naturgas states that questions concerning the development of secondary markets are not applicable.

### **Exxon Mobil (Germany)**

There are doubts as to whether Exxon Mobil Production Deutschland, to which the questionnaire was addressed, or any of its affiliates, is a storage operator in the sense of the GGPSSO or of the Directive.

Exxon Mobil Production Deutschland provides technical services to SSOs and pipeline operators, but has neither the function nor the legal responsibility to operate a storage facility in a commercial role.

Exxon Mobil Gasspeicher Deutschland has stakes in 5 storage facilities, but:

- its share of the first facility in Dotlingen is used exclusively for production operations and is therefore exempt from TPA under the terms of the Directive;
- all of the capacity at the three facilities Exxon Mobil Gasspeicher Deutschland has a stakes in at Reitbrook, Breitbrunn and Eggstatt has been leased to third parties – the latter own most or all of the equipment necessary for operation of the facilities, and Exxon Mobil is prohibited from using the equipment or the leased facilities;
- the entire capacity at the Exxon Mobil Gasspeicher Deutschland's Schmidhausen facility has also been leased to a third party, which operates the facility in a commercial sense.

### **Gaz de France Produktion Exploration Deutschland (Germany)**

Although Gaz de France Produktion Exploration Deutschland participated in last year's monitoring exercise, it failed to answer the 2006 questionnaire.

Gaz de France Produktion Exploration Deutschland considers itself a technical site manager, not a storage system operator in terms of the GGPSSO. It states that the specific usage of the storage facility - not least of all in terms of a possible sale of unused capacity to third parties - is entirely at the discretion of its contractual partner, who therefore holds the actual power of disposition over the storage facility.

### **Gasspeicher Hannover (Germany)**

Gasspeicher Hannover states that its storage is not technically and/or economically necessary for providing efficient access to the system for the supply of customers, and therefore by definition not subject to the scope of article 19 Dir 2003/55/EC and section 28 of the Energy Industry Act (EnWG). In addition its storage is also used by the shareholders for fulfilling obligations under the

German Energy Industry Act (EnWG) and the Gas Network Access Order (GasNZV) as well as in connection with production operations.

**e. Other reasons for exclusion from the main analysis**

**Statoil (Germany)**

Statoil explained that it was unable to answer the questionnaire due to time constraints. It stated that the questionnaire would be completed by the end of March 2006. No answer has yet been received.

**Gasag (Germany)**

Although Gasag (Germany) participated in last year's monitoring exercise, it failed to answer the 2006 questionnaire.

Gasag (Germany) considers that it is not obliged to comply with the GGPSSO that have no binding force. It also plans to provide storage access as far as possible, subject to the restrictions caused by the ongoing storage accident that hit its facility last year.

**N-ERGIE (Germany)**

N-ERGIE jointly operates an underground gas storage facility (pore storage) with E.ON Ruhrgas under an "ownership in common" arrangement as defined in the German Civil Code. EON Ruhrgas owns a two-thirds interest in the storage facility, with the remaining third owned by N-ERGIE. Use of the facility is also split two-third/one-third between EON Ruhrgas and N-ERGIE. Technical operation and maintenance services are carried out by E.ON Ruhrgas AG, which is thus responsible for maintaining the performance of the storage facility and all technical aspects of storage operations.

N-ERGIE states that it will satisfy the legal requirements of section 28 of the German Energy Industry Act in respect of its share of the above-mentioned storage facility, taking account of the above-mentioned framework conditions. It adds that the implementation of additional requirements arising from the GGPSSO is currently being examined, also in consideration of N-ERGIE's agreements with E.ON Ruhrgas AG regarding the common gas storage facility.

When presented with the 2005 and 2006 questionnaires, N-ERGIE asked to be provided with version in German, inter alia for reasons of legal certainty. A German version of the questionnaire could not be provided, and as a result N-ERGIE answered neither the 2006 nor the 2005 questionnaire.

**Stadtwerke Kiel (Germany)**

Stadtwerke Kiel AG states that it was not involved in the process of agreement of the GGPSSO and does not currently observe these (non-binding) guidelines. Stadtwerke Kiel AG adds that it has very little available storage capacity (approx. 35 million m<sup>3</sup>) and that the implementation of the GGPSSO with their demanding requirements as regards publication and storage access would, at present, cause substantial costs for the company and be economically unreasonable. Stadtwerke Kiel AG points out that information on capacities available at its Kiel-Rönne storage facility and the main terms and conditions for storage access as required under section 28(3) of the German Energy Industry Act have been published on its website at [www.stadtwerke-kiel.de/Business/Gasspeicherung](http://www.stadtwerke-kiel.de/Business/Gasspeicherung)).

Because Stadtwerke Kiel AG did not answer the 2006 questionnaire it was impossible to include it in the main analysis. However Stadtwerke Kiel AG participated in last year's monitoring exercise and thus answered the 2005 questionnaire. This has allowed ERGEG to obtain a picture of the SSO's compliance with the GGPSSO, at least as of 15 March 2005. At that time:

- access to storage was provided on a negotiated basis and there were less than 3 users;
- Stadtwerke Kiel AG was a legally unbundled entity and was in the process of preparing a document setting out terms and conditions for use of storage by affiliates as well as a standard storage contract produced in consultation with users. - consultations consisted of bilateral contacts with some users;
- there was no available capacity;
- Stadtwerke Kiel AG offered bundled services but neither a service including an obligation to allocate gas that has been nominated nor injection/withdrawal possible at any time (the latter due to technical constraints); services were not separately charged; users were consulted with regard to the menu of services via bilateral contacts with some users, bilateral contacts with all users and prospects, as well as open consultation processes involving some kind of public announcement; users were allowed to pool nominations with a view to overcoming potential capacity thresholds, and email platforms for nominations, bookings and transfers of capacity rights had been developed;
- the capacity allocation mechanism used was a first-committed-first-served mechanism designed by the SSO, subject to bilateral consultation with users; in case of congestion, a pro-rata mechanism designed by the SSO and still under construction was to be applied; Stadtwerke Kiel AG offered all unused capacities on interruptible basis;
- Stadtwerke Kiel AG kept databases related to storage separate, and had a prohibition on passing privileged information onto affiliates; Stadtwerke Kiel AG was in the process of establishing a code of conduct supervised by a compliance officer; confidentiality arrangements were monitored via external audits and the SSO and supply affiliates operated from separate buildings;
- Main commercial conditions were not published but available free of charge, while operational data was for the most part neither published nor available free of charge; the commercial sensitivity of information was cited as the main reason for non publication of data;
- Measures to facilitate secondary capacity trading were still in preparation and not implemented yet.

### **Pozagas (Slovakia)**

This SSO did not send the updated 2005 questionnaire including the answers needed for the monitoring exercise.

- Pozagas indicates that a storage Code has been developed in consultation with users. Before its approval in October 2005, Slovak regulator placed draft of storage Code on internet and allowed public discussion.
- the capacity allocation mechanism is based on an order of priority.

## Annex 2 – LIST OF RESPONSES

### Responses received from NRAs

BNETZA (Germany)  
AEEG (Italy)  
CRE (France)  
DTE (Netherlands)  
HEO (Hungary)  
OFGEM (United Kingdom)  
E-Control (Austria)  
ERU (Czech Republic)  
ERO (Poland)  
CNE (Spain)  
DERA (Denmark)  
CREG (Belgium)  
STEM (Sweden)  
RONI (Slovak Republic)<sup>89</sup>

### Responses received from SSOs

*31 SSOs in the scope of the monitoring report:*

Stogit (Italy)  
Gaz de France DGI (France)  
E.ON Ruhrgas (Germany)  
Wingas (Germany)  
MOL (Hungary)  
CSL- Centrica Storage Ltd (United Kingdom)  
Enagas (Spain)  
TIGF- Total Infrastructures Gaz France (France)  
VNG – Verbundnetz Gas (Germany)  
RWE Transgas (Czech Republic)  
RWE DEA (Germany)  
OMV Gas GmbH (Austria)  
BEB Speicher (Germany)  
NAFTA (Slovak Republik)  
EWE (Germany)  
RWE Energy & KST/ Stassfurt storage facility (Germany)  
DONG D&S (Denmark)  
RAG (Austria)  
Fluxys (Belgium)  
SSE Hornsea (United Kingdom)  
Edison Stoccaggio (Italy)  
Bayerngas (Germany)  
NAM- Nederlandse Aardolie Maatschappij /Grijpskerk storage facility (Netherlands)  
E.ON Avacon (Germany)  
swb Netze (Germany)  
Gas Union (Germany)  
EEG – Erdgas Erdöl (Germany)  
STEAG (Germany)

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<sup>89</sup> The input from the National Storage Report will be incorporated at a later stage.

E.ON Thüringer Energie AG (Germany)  
E.ON Hanse (Germany)  
BP/holders of the Alkmaar Gas Storage licence (Netherlands)

*14 SSOs out of the scope of the monitoring report:*

Latvijas Gaze (Latvia)  
Transco LNG (UK)  
Deutsche Essent (Germany)  
E.ON Gas Sverige (Sweden)  
POGC (Poland)  
Nova Naturgas (Sweden)  
Exxon Mobil (Germany)  
Gaz de France Produktion Exploration Deutschland (Germany)  
Gasspeicher Hannover (Germany)  
Statoil (Germany)  
Gasag (Germany)  
N-ERGIE (Germany)  
Stadtwerke Kiel (Germany)  
Pozagas (Slovak Republik)

**Input from stakeholders regarding ERGG's Interim report**

*6 responses regarding factual errors in the Interim report*

NAFTA (SK)  
RWE Transgas (CZ)  
BP (NL)  
EON Hanse (DE)  
SSE (UK)  
EON Thueringer (DE)

*5 responses by SSOs and their associations regarding the conclusions of the Interim report*

Gas Storage Europe  
RAG (AT)  
SSE (UK)  
ExxonMobil (DE)  
Centrica (UK)

*2 sets of reactions to the Interim report from the standpoint of system users*

Users present at the 11<sup>th</sup> Madrid Forum  
Union of the Electricity Industry -EURELECTRIC

## ANNEX 3 – SYNOPSIS OF USER AND SSO COMMENTS ON THE CONCLUSIONS OF ERGEG's INTERIM REPORT

### *Comments by system users*

#### Union of the Electricity Industry - EURELECTRIC

EURELECTRIC is concerned by the low level of compliance with the GGPSSO depicted in ERGEG's report, in particular with regard to transparency and secondary markets. EURELECTRIC is also concerned by the lack of clarity surrounding TPA exclusions in the EU. It notes that these problems were already reported last year and that little progress has been made since. EURELECTRIC would welcome practical recommendations by ERGEG ensuring full compliance with the GGPSSO.

Separately from the GGPSSO, EURELECTRIC believes that the level of storage capacity in Europe needs to be increased, and recommends that ERGEG look into ways this could be achieved.

#### Users present at the 11<sup>th</sup> Madrid Forum

Users noted that progress had been made since last year but stressed that considerable work remained to be done. In particular, they commented on the low level of compliance with respect to transparency and secondary markets. Users also reminded vertically integrated SSOs they must be able to submit to their NRAs a document laying out terms and conditions for storage use by their affiliates.

### *Comments by SSOs*

#### Gas Storage Europe

GSE appreciates the fact that ERGEG's report acknowledges the substantial progress made by its members. However, it feels that:

- the conclusions regarding transparency, TPA services and secondary markets are **overly negative** given the rather satisfactory situation depicted in the body of the report. Indeed the body of the report shows a situation where the bulk of storage capacity is compliant, with non-compliance **concentrated around smaller SSOs**, which are understandably having a harder time implementing the GGPSSO.
- GSE also feels that the report should clearly separate GGPSSO requirements from other requirements such as legal unbundling. GSE believes that **the GGPSSO are sufficient**, and that additional measures are unnecessary
- There are still some **problems in terms of compliance** with the GGPSSO, but these **will be resolved**, especially since SSOs, like storage users, have an interest in establishing a well-functioning market

### Exxon Mobil

ExxonMobil supports the GGPSSO but:

- **does not believe further obligations should be introduced.** In particular, this would include legal unbundling, and requirements for facilities exempt from TPA according to art. 2.9 of the Directive.
- believes the report tends to ignore some fairly good results (for example regarding the publication of commercial conditions) and paint them in a negative way in the conclusions. The risk of using such a **negative tone** is that the report will be used to justify the introduction of requirements that are unnecessary.
- Two such requirements have already been mentioned. **Some GGPSSO requirements are also unnecessary** under certain circumstances, for example electronic bulletin boards, when there is no demand for such a tool. This is actually recognized by the GGPSSO, but not reflected in the report, which fails to take into account the limited number of trades on secondary markets

### SSE (UK)

General comments on the Interim report

SSE supports the GGPSSO, but only in markets where competition still hasn't developed. **In a competitive market** such as the UK, **applying the GGPSSO to the letter leads to unnecessary costs.** In particular, SSE mentions that "EU Guidelines require storage operators to keep users whole at all times. This is of significant value to customers, but in publishing both historic and near real time disaggregated data, the market has all the information necessary to determine a storage operator's position and, at times of system distress, to expose storage operators to unavoidably high costs. This severely compromises their ability to fulfil their obligations under the EU Guidelines and is again evidence of over-regulation in an already competitive market

Comments on the questions put to system users in the Interim report

In this response SSE focuses on the **UK market. SSE believes that this market functions well works well** as it is, that **compliance with the GGPSSO does not need to be strengthened,** and that **no additional requirements** beyond the GGPSSO need to be introduced. In particular:

- Consultation processes menus of services are adequate
- Capacity is sold in a flexible way that does not create barriers to entry
- Congestion is not a problem, but if it were UIOLI provisions are in place. If a storage facility is fully booked, capacity can be acquired by way of bilateral deals or auction processes
- Confidentiality requirements are effective in ensuring non discriminatory service conditions, do not need to be reinforced and their effectiveness does not depend on the existence of a compliance officer or the monitoring of compliance programmes by NRAs

- Transparency levels are satisfactory. Capacity definitions do not need to be improved or made consistent with EU definitions. Information on available capacity in the future is adequate and reflects a balance between market needs and cost considerations. Operational information, for example regarding maintenance operations (both planned and unplanned), is sufficient and timely. Finally, commercial information is easily accessed via websites or by contacting the SSO, and is precise enough.
- There are no impediments to secondary trading
- Storage facilities effectively compete with other forms of flexibility, including virtual storage contracts, distillate and heavy fuel oil substitutes to fuel, and swing contracts.

Although SSE does not consider **legal unbundling** to be necessary in the UK, it does believe it **would have a beneficial impact on continental markets**, where competition has not developed yet. SSE also stresses the positive impact which regulators have had on the UK market, thus implying that **regulatory supervision of continental markets would be important**.

#### Centrica (UK)

In addition to being an SSO, Centrica is a current and prospective user of storage services given that it is a major gas supplier and trader in Great Britain, with wholesale procurement and trading activities on the continent. Centrica is therefore keen to see full and effective implementation of the GGPSSO across Europe. Centrica's response focuses on those continental markets where it has gas interests (Germany, Belgium and the Netherlands) and on France.

Centrica agrees with ERGEG that the **level of compliance with GGPSSO requirements on continental markets is too low and mentions additional problems**. In particular Centrica is concerned by:

- **the lack of capacity** on many continental markets
  - o especially given the fact that other forms of flexibility (indigenous production, interruptible capacity, other instruments) are limited
- **circumstances that limit the availability of capacity even further**
  - o onerous balancing requirements that drive up demand for storage even more thus putting extra pressure on supply (hourly balancing and combined ownership of storage and transmission can complicate things further – Belgium)
  - o TPA exemptions or priority rules linked to public service obligations (Belgium, Netherlands, France)
  - o what may turn out to be excessive RTPA exemptions for new infrastructure (for example in the UK - exemptions can be useful, but certain conditions should be verified before they are granted)
  - o Complex rucksack principle rules which can create a vicious cycle where the availability of storage is tied to having customers, which in turn is tied to having storage capacity
  - o Limitations on the ability to use storage in one part of the country to support customers in another (France)
  - o Restrictions on using storage facilities from neighbouring countries (Belgium)
  - o Restrictions on access to other forms of flexibility (Belgium - Distrigas's exclusive Gasunie supply contracts with Gaunie and Distrigas's commercial peak supply agreements with Gaz de France)

- **rigid service conditions**, in part tied to **consultation processes that are not genuinely open**
  - o the excessive notice period ahead of the start date of contracts (France\*)
  - o the unavailability of firm space, which in turn has a detrimental effect on interruptible capacity generated through UIOLI arrangements
  - o the lack of flexibility with regard to injection/withdrawal periods (Belgium, France\*)
  - o boundaries on users for the amount of gas stored (France)
  - o The underdevelopment of secondary markets (Belgium)
  - o restrictions on booking periods (Belgium)

- congestion management due to incomplete (Belgium) or lacking (France\*) **anti-hoarding arrangements**

*\* According to the French energy regulator, the notice period ahead of the start date of contracts in France was reduced from 3 months to 1 month in April 2006. In April 2006 injection/withdrawal periods were also made flexible, and anti-hoarding arrangements were introduced*

- confidentiality arrangements due to:
  - o the **absence of regulatory monitoring** of actual implementation of compliance programmes and non-discriminatory measures
  - o the **absence of legal unbundling**
- **transparency**
  - o figures are not updated daily (Belgium)
  - o the level of information is still poor, which can facilitate capacity hoarding, and may require registration, (Germany)
  - o the quality of sales information can be poor (SSE-UK)
- **negotiated access** in a context where competition has not fully developed, in part because:
  - o L-gas and H-gas facilities are not substitutes
  - o Long-term and Short-term storage are not good substitutes
  - o it is uneconomical to transport low load factor gas over long distances
- the effectiveness of the GGPSSO due to:
  - o their **non-binding nature**
  - o the fact that there is even **disagreement on what facilities should be subject to the GGPSSO** (particularly in Germany)

#### RAG (AT)

RAG **agrees with the shortcomings about its level of compliance** identified in ERGEG's report. However, it points out that:

- It is **expanding its system** to accommodate further demand
- **Non-compliance problems are being addressed** and will be solved by Fall 2006. In particular, RAG will begin offering short-term capacity and providing more information to the market

- **Some of the GGPSSO requirements are unnecessary or impossible to implement:**
  - TPA Services
    - Approval of TPA exemptions by NRA: exemptions do not need to be approved as there are none
    - Monitoring of confidentiality measures and allocation of PSOs: these measures can only be taken by the NRA or legislator
    - Withdrawal/injection possible at any time: RAG only has one facility, so switching from injection to withdrawal at any time is impossible
    - Interruptible capacity: to avoid balancing energy users are allowed to change nominations hourly, which prevents interruptible services from being offered
    - Open consultations monitored by an NRA: RAG has no available capacity which makes consulting prospects useless. RAG's small number of users make bilateral consultations inevitable
  - Confidentiality:
    - Separation of databases and buildings: integration lowers costs to the benefit of consumers, a fact recognized by Austria's legislator
    - Document laying out terms of service for affiliates: although no such document exists, no discrimination takes place. If it did customers would immediately notice it and leave since Austria's storage market is small and competitive due to an excess of capacity and short transportation distances. In addition the regulator has also reviewed all contracts and determined that they were non-discriminatory
    - Standardized contracts and procedures: RAG only has 4 users and has no available capacity, which makes such provisions unnecessary
    - Monitoring of confidentiality measures: these measures can only be taken by the NRA or legislator
  - Capacity allocation and congestion management
    - UIOLI arrangements: storage capacity is fully used and there are no hoarding problems
    - Congestion management: there is no such mechanism because the law already states what must be done in case of congestion: i.e. users are served according to the chronological order of their contracts
  - Transparency
    - Tariffs calculator: a tariff calculator would serve no purpose as there is no available capacity
    - Publication of storage capacity, historical and aggregated inflows and outflows: RAG publishes total capacity. The control area manager publishes historical data going back to 2003. Older historical data is irrelevant as the behaviour of market participants has dramatically changed since the opening of the market
    - publication of planned maintenance periods: publication would harm the trading activities of system users, especially as regards balancing. However each customer is informed about maintenance periods well in advance, and maintenance are planned in cooperation with users to minimize disturbances
  - Secondary markets:
    - Bulletin board: capacity is fully used, which makes this measure unnecessary

#### **ANNEX 4 – Factual modifications made to ERGEG’s Interim Report**

On 15 May 2006, ERGEG published its 2006 Interim Report on Monitoring the Implementation of the GGPSSO. ERGEG invited stakeholders to submit comments on the document, both concerning its conclusions and contents, up till 29 June 2006.

ERGEG received a number of comments on the conclusions of its Interim report which are summarised in ERGEG’s 2006 Final Report on Monitoring the Implementation of the GGPSSO.

In addition, ERGEG received comments regarding factual errors in its Interim report from 6 SSOs: NAFTA (SK), RWE Transgas (CZ), BP (NL), EON Hanse (DE) SSE (UK), EON Thuringer (DE). The present document lists these comments.

The number of corrections regarding the contents of the report (23 in total) is substantial, but minor if judged against the quantity of information contained in the report.

##### **RWE Transgas (CZ)**

- section 4.2: RWE Transgas has a code of conduct that covers confidentiality
- section 5.4: RWE Transgas conducts consultations that include a public announcement
- section 7.1.2: RWE Transgas publishes a tariff calculator
- section 8.1.3: RWE Transgas allows the aggregation of secondary storage capacity

##### **NAFTA (SK)**

- section 3.6: NAFTA was legally unbundled last year as well. “Now” qualifier is thus inappropriate
- section 4.1: NAFTA kept its storage database separate last year as well. Qualifier “new” is therefore inappropriate
- section 5.7: NAFTA continues to offer the service. Past tense “offered” is therefore inappropriate
- section 6.1.1.1 and 6.1.1.2: Nafta does not allocate capacity solely on the basis of an order of priorities defined by law, but also on the basis of its storage code. The report should reflect this and state that NAFTA applies capacity allocation mechanisms based on a series of criteria, mainly a combination of orders of priorities defined by law and first come first served.
- section 6.1.1.2: NAFTA offers unused capacity on interruptible basis, but the specifics “day-ahead” and “non-nominated” do not apply

##### **SSE (UK)**

- section 7.2.2: non publication of aggregated data is largely information technology (IT) -driven and not due to customer numbers

**BP (NL)**

- sections 3.1 and 3.5: working capacity equals 0.5 bcm (35,17;n)
- section 3.5: the number of users is correct but is the same as last year
- section 4.1: BP has a compliance programme to check separate databases
- section 4.2: BP has a compliance programme to ensure that no sensitive information is provided to affiliates
- section 5.4: BP's consultation process is open or openly announced
- section 6.1.1.1: BP's capacity allocation mechanism is not FCFS but an open season with reduced pro-rata if overbooked
- section 6.1.1.4: BP has a mechanism to offer unused capacity on an interruptible basis (day-ahead release)
- section 8.1.2: BP allows trade of gas in store
- section 8.1.4: BP allows aggregation of capacity
- section 8.3: BP allows for title transfer

**EON Hanse (DE)**

- sections 3.1 and 3.5: EON Hanse's technical capacity is not 0.05 bcm but 0.5 bcm

**EON Thuringer (DE)**

- section 4.1 and 4.2: EON Thuringer not only keeps separate databases and passes no privileged information onto affiliates, but also has compliance programmes covering these obligations
- section 5.4: the last consultation dates back to Q2-Q3 2006