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ERGEG RI Review

Administrative officer
Davide Rubini

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Your reference
Statoil position

ERGEG
Attn.: Mrs. Fay Geitona
CEER Secretary General
Brussels
Belgium

OBJECT: Response to Safeguarding the move to a single market consultation paper

Dear Mrs. Geitona,

We would like to thank you for the opportunity to have a say on the Regional Initiatives status review. In fact, we acknowledged RIs' contribution to the creation of a Single European energy market and we believe that their role has now the opportunity to be further enhanced by the provisions included in the Third Energy Package.

As you will see we have chosen to focus on the Gas RIs only and we have built our comments with specific reference to the most important activities and projects in each area. We have responded to the questionnaire having in mind the following core messages:

- *Main achievements.* RIs have provided an alternative forum for regulators to discuss pending regulatory issues although progress has not always matched ambitions and/or expectations;
- *Investment in new infrastructure.* Leaving behind a national approach to the advantage of singled cross-border procedures is more and more necessary;
- *Capacity allocation and congestion management.* RIs should contribute towards progressive harmonisation of methodologies and strive for a European wide approach;
- *Transparency.* TSOs have improved sensibly the quantity and the quality of data provided, although more could be done with respect to harmonising the way data are made available;
- *Interoperability and hub development.* Increased liquidity at all hub should stay as main priority to be addressed. Lack of liquidity should mainly be read as a consequence limited access to entry capacity;
- *Security of supply.* RIs should continue to act as an additional channel to gather information as well as to identify the main challenges and problems to be overcome.

Please find attached the response to your questionnaire. We remain available for further clarification should you find it necessary.

Kind regards
Statoil ASA

Davide Rubini
drub@statoil.com

A. ERGEG Gas Regional Initiative

A.1. From your point of view, what is the main achievement of the Gas Regional Initiative process?

It is difficult to provide an assessment without differentiating among the various regions. Was one to give a high level opinion on the overall process, Regional Initiatives have:

- Contributed to create an alternative forum for regulators to discuss pending regulatory issues from a different angle triggering synergies that would have not otherwise materialised;
- Provided additional opportunities for dialogue between regulators and other stakeholders at a level that may result more appropriate for a step-by-step approach towards the realisation of the single market;
- Offered a potentially more efficient way to tackle issues that reflect the level of maturity of the relevant national markets, although progress in this respect has not always matched ambitions and/or expectations.

Investment in new infrastructure

A.2. Do you consider that Gas Regional Initiative (GRI) projects have effectively contributed to cross-border investment processes? What kind of improvements would you expect?

RIs can list 4 main projects in this area. Statoil would like to express its views on three on them and express its views on lack of action in the South-South East Region:

- French-Spanish coordinated open seasons for Larrau/Biriatou and the Midcat project: the open seasons tendered in France and Spain suffered from lack of coordination and a different working culture between the two sides. A cross-border approach rather than a pure national one would have helped to better align the processes and find pragmatic solutions. While the French side chose to focus on procedures and rules, the Spanish counterpart was ready to find a compromise beyond jointly pre-defined minimum booking requirements. Both issues would have probably been overcome, had the two parties acted under the supervision of the Agency for Cooperation of Energy Regulators, or had at least agreed to act through a joint mechanism set in a way that guarantees objectivity and smooth decision-making. The contribution of RIs could come exactly in this form: providing tools and mechanisms to overcome impasses generated by diverging views.
- French-Belgian coordinated open season in April 2007 between GRTgaz and Fluxys with the cooperation of GTS: the project stalled mainly for the inability of the Belgian counterpart to have tariffs set in due time. This made more difficult for TSOs to commit to the investment while, without a clear price and a minimum booking requirement, for shippers it was nearly impossible to show clear interest in new potentially available capacity.
- Danish open season in cooperation with Gasunie/GTS integrated open season and Gaz Systems open season: due to the uncertainty in the incentive regulation and efficiency regulations TSOs were not able to publish binding tariffs for the Integrated Open Season capacities. Although we understand that is not always possible to publish terms prior to the open season, we believe that a tariff bandwidth would have represented an adequate compromise and it would have given participants some degree

of certainty. Uncertainty existed also with respect to capacity availability. Whilst we are assured that capacity can be made available in 2014, it is uncertain whether capacity can be made available at an earlier stage. We understand that pipelines are quicker to build than compressor stations and that it depends on other bids on how the infrastructure can be utilised to meet capacity needs but more insight into availability would be useful. Also, extending the market screening would often better fit within our investment timescales. To enable us to discuss important issues, relating to our capacity requirements and meet decision gates, an additional 2 months would further our ability to do this.

- Virtual test to build a hypothetical pipeline between Germany, Netherlands, Belgium and France: the initiative was very much welcome and its design much appreciated. The right questions were asked and appropriate scenarios were formulated. Despite so, the working group could not agree on a number of requests put forward by shippers and its concluding report is unlikely to contain two of their recommendations. Shippers have made clear that it is impossible for them to commit and book firm new capacity where TSOs do not define upfront the estimated cost per capacity unit and they do not clarify what the investment trigger is, that is the minimum booking requirement for the capacity to be realised. On this basis following through on the expectations the project had generated will become more difficult than foreseen. The situation is further complicated by the fact that the working group has decided to delegate entirely the implementation of the recommendations that will be included in the conclusive report to national regulators and TSOs. This may cause the open seasons that will be based on the results of this virtual exercise to incur into problems already seen in other cross-border open season procedures. Lack of coordination and lack of a wider perspective that goes beyond a national approach may jeopardise successful execution.
- Lack of concrete initiatives on investment in new infrastructure in the South-South East region despite its importance in light of the development of the Southern Gas Corridor is not commendable. In this area lack of rightly implemented secondary legislation and a very inhomogeneous regulatory environment are both the greatest impediment to infrastructure development and the perfect ground for regulators and stakeholders to come together and address existing challenges. The implementation of similar tariff methodologies and nomination procedures, as well as the establishment of transparent capacity allocation methodologies across countries would provide the regulatory stability necessary for shippers to appreciate the potential attractiveness of transiting and delivering gas through/to the region, while standardised authorisation procedures and the creation of an investment coordination group for all the projects being planned would ensure that new capacity is created in the most efficient manner.

On a more general level we believe that to better inform future open seasons, lessons could be learnt from carrying out impact assessments on past open seasons. We would suggest that national regulators undertake impact assessments for major open seasons, to assess which aspects worked well and where improvements can be made to inform future open seasons. This would also work towards improving transparency and the accountability of the TSOs.

Capacity allocation and congestion management

A.3. What lessons do you draw from GRI projects in the area of access to cross-border capacity? Do the current GRI projects on capacity allocation harmonization meet your expectations?

A.4. Would there be real benefits if, at this stage, the GRI tried to seek better coordination at a cross-regional level? How do you value the experience acquired with the capacity projects in the regions? What type of projects should be developed in the future?

RIs can list 2 main projects in this area:

- Launch of the secondary capacity platform in Germany, Netherlands and Denmark: Statoil recognises the importance of establishing platforms for secondary capacity trading in that they have served to establish a dialogue between TSOs, regulators, platform operators & market parties. We also observe that platforms are now developed and that the relevant legal challenges have been determined, yet we would like to invite regulators to note that rather than deepen work on the mechanics of the platforms themselves, more attention should be paid to an aspect that characterises these experiences, meaning lack of liquidity.

The main implicit benefit in secondary capacity trading consists in providing a continuous commercial and voluntary opportunity to solve situations of contractual congestion. Shippers who hold capacity are enabled to sell when they don't plan to use the capacity or are not commercially required to hold it, while shippers who need capacity are enabled to buy when primary capacity is not available. However, by no means secondary trading can be seen as the sole and exclusive CMP or as a sufficient measure to ensure an efficient use of capacity or to avoid anti-hoarding. Secondary capacity trading is a tool that has a function in the time between the sale of primary capacity and the release of additional capacity from new investments and offers an opportunity for congested points to reveal the value of alternative optimisation solutions.

Yet, for this tool to be fully exploited a number of conditions should be in place. To ensure that market participants make use of secondary markets, access should be maintained simple and cheap, the possibility to split bundled products, i.e. fragmentation in time and volume, should be foreseen, and secondary capacity prices should be allowed to compete with primary capacity prices. Looking at the Gassco experience should definitely provide hints for improvement. Statoil also believes that the principles enshrined in the EASEE-gas Common Business Practices on Secondary Capacity Trading provide adequate terms of reference.

- French-Spanish Laurrau capacity allocation through open subscription period and pro-rata mechanism: Statoil regards the choice of OSP combined with pro-rata as capacity allocation mechanism sub-optimal and a reason for limited interest in the procedure. In several occasions we have expressed our preference for alternative methodologies and in particular for auctions as we see them as the most efficient way to set prices through market based mechanism. Auctions make sure that all demand for primary capacity is met where it is economic and efficient to do so, avoid non-transparent and discriminatory capacity allocation as they imply no priority order, and reduce pressure on second best options, such as anti-hoarding rules and interruptible capacity.

On a more general level, we also believe that in light of the ongoing work on the cross-border network code on Capacity allocation mechanisms and congestion management procedures RIs could become an appropriate forum to identify where the biggest challenges are in terms of European wide harmonisation, shedding light on the peculiarities of the different regions. Once the network code will be ready, RIs could play an important role in the implementation phase, including helping increasing the level of transparency that is the necessary pre-condition for any capacity management activity.

On a different note, we do not believe that adding another forum for discussions and consultations would benefit the drafting process. Many actors and tables are already available and a new dimension would not bring much value or clarity, especially because the goal of this exercise should be to try to limit exceptions and differences rather than finding new ways to accommodate them. The work on cross-network codes has to be ambitious and long-lasting, otherwise it will fail or remain of limited use.

Finally, Statoil believes that RI could contribute to reflecting on the development of an “integrated model” for market based capacity allocation mechanism, which is able to signal ex-ante the capacity price levels that represent existing grid costs, investment triggers – tariffs and minimum booking – for new capacity, and it encompasses the potential for buy-back of oversold capacity by TSOs. Such a model would aggregate capacity demand at each entry and exit point and put a price on different levels of demand factoring the need of the TSO to invest in new capacity to satisfy all requests for access to the network or to oversell beyond technical available capacity. In such a model capacity would be requested by network users through regular pre-defined price levels auctions.

Transparency

A.5. What would you expect to be the contribution of the GRI to transparency going forward? Do the current projects in the three regions meet your expectations?

A.6. How could this work help to ensure that the requirements of the 3rd Package are met in a consistent way across the three gas regions?

Transparency initiatives, where seriously implemented, have obtained very good results. In the North-West region TSOs have improved sensibly the quantity and the quality of data provided, although more could be done with respect to harmonising the way data are made available. Full implementation of Chapter 3 of Regulation (EC) No 1775/2005 will have to be the next challenge and the opportunity to move towards a consistent approach across Europe.

Interoperability and Hub development

A.7. What further actions would you expect from the GRI in this area in order to contribute to interoperability and hub development?

A.8. From your experience with the Regional Initiatives, what are the main obstacles to reach harmonization regarding interoperability at a regional level?

Hubs are key to improve access to markets as increased trading at the hub ensures a more level playing field for all parties, it creates flexibility and optimisation potential for stakeholders, and it provides an alternative platform to source and dispose of capacity. Experience so far is that lack of liquidity is the main factor preventing/limiting hub development and that lack of access to firm capacity represents the main obstacle for the situation to be improved.

Security of Supply

A.9. Should security of supply be more clearly considered as a main driver within the GRI? Should specific actions be developed in this area?

The RIs are a flagship own-initiative project of the energy regulators to speed up the integration of Europe's national energy markets and find solutions to concrete problems (investments need, congestion management, capacity allocation, transparency, hub development) primarily through dialogue among the regulators themselves, and secondarily with governments and other stakeholders.

Congestion management, investments in new infrastructure, transparency and hub development are all measures that contribute to the security of supply of specific regions and of the EU as a whole. Through these measures, security of supply is indirectly and implicitly already considered as a main driver within the RIs. Taking stock of our comments above on specific projects and activities will improve their role and contribution in this respect.

A.10. How can the regions of the GRI take into account and develop measures contained in the European Commission's proposal for a Regulation concerning measures to safeguard security of gas supply?

The Commission proposal for a Gas Security of Supply Regulation calls for emergency instruments to be developed and used at the national, regional and Community level. However, it does not make any explicit or exclusive link between the regional level and the regional initiatives, implying that, in its context, regions are to be intended as functional aggregations appropriately designed to ensure a satisfactory level of security of supply for European gas consumers all together.

This said, RIs could represent an additional channel to gather information in view of the preparation of the Preventive Action Plan, the Emergency Action Plan, as well as to identify the main challenges and problems to be overcome to implement such plans and to be included in relevant Risk Assessments. However, drafting the plans should remain in the hands of the single various Competent Authorities.

Competent Authorities should be working together on regional plans only when Member States so decide and on the basis of tailored bilateral or multilateral agreements. Otherwise, RIs could play a key supporting role in assessing and verifying the consistency among the plans developed at Member State level, regional level and Community level.