

INTRODUCTION

In line with the conclusions of the Madrid Forum XIV (May 2008), EFET presented, at the Madrid Forum XV (November 2008), a Minimum Transparency Requirements List (MinTra list). The MinTra list was supported by OGP, Eurogas, Eurelectric, CEDEC and GEODE, and later upon the presentation thereof at the Madrid Forum also IFIEC expressed their support.

At Madrid Forum XVI in May 2009, the European Commission presented a draft proposal for Transparency Guidelines that were based on the MinTra list and asked all stakeholders to provide feedback on it by the end of June for the Commission to be able to prepare a final proposal for amendment of Regulation (EC) 1775/2005 (Regulation). GTE+ submitted comments on 9 July having analyzed the draft proposal in detail reflecting already then on the concrete implementation of the new obligations. In its comments and recommendations, GTE+ aimed at a high level of transparency for the gas market while taking due account of the specificities of market models in different MSs as well as of the need for real added value of the information requested.

ENTSOG, the European Network of Transmission System Operators for Gas, as successor to GTE+ welcomes this latest proposal from the Commission and recognizes that the Commission has considered some of the comments provided to it by GTE+ but, in the final proposal submitted to the committee in accordance with Article 9(2) of the Regulation, there still remain issues that the TSOs would like to raise concerning the scope of the data required, the updating obligations and the implementation timeline. Whilst it is not yet clear what the management of the legislative (comitology) process will be, TSOs trust that implementation would not be required ahead of 3 March 2011

Based on the above, ENTSOG would like to put forward the following comments and recommendations regarding the Commission's final proposal. Please note that the general remarks reflect in more general terms the concrete remarks that follow, and should not be considered separately from them.

GENERAL REMARKS

Legal Certainty

Due to the fact that the current amendment procedure is related to Regulation (EC) 1775/2005 which is going to be repealed as of 3 March 2011 there is a lack of clarity about any text that should be adopted before the 3 March date. As it cannot be guaranteed that the text expected to be (re-) adopted under Regulation (EC) 715/2009 will be exactly the same, it would be preferable to use the time period between now and 3 March 2011 for thorough discussion of the proposal following, where possible, the amendment procedure defined in Regulation (EC) 715/2009 and taking into consideration any changes applicable to the process following the entry into force of the Lisbon Treaty.

To meet the expectations of the Commission in terms of enhanced transparency in the meantime, some issues could be discussed within the framework of the Madrid Forum and

based on voluntary implementation.

ENTSOG would nevertheless welcome if the legal services of the Commission could confirm that the Commission may call for the establishment of the Gas Committee according to Article 51 of Directive 2009/73/EC before 3 March 2011 and that the procedure specified in Article 28(2) of Regulation (EC) 715/2009 may be applied before that date.

Cost-Benefit Assessment

The proposal envisages the publication of large datasets the concrete extent of which will very much depend on the complexity (number of relevant points) of individual transmission systems. For some TSOs, the implementation of the current proposal is thus likely to be costly. Also, depending on the IT system currently used by the TSO, some TSOs are likely to have to replace their IT system completely to meet the new requirements. In addition, the maintenance costs need to be taken into consideration as well.

To achieve a most favourable cost-benefit position, ENTSOG proposes to reconsider, on item-by-item basis, the following issues:

- The publication of real-time data
- The publication of data for the transmission-distribution interface

For reasons of possible additional operational costs, ENTSOG proposes to reconsider the publication of linepack / the amount of gas in the system, especially of any real-time updates thereof (see also section 'Real-time' data under Concrete Remarks).

Acceptance of Costs

Regulation (EC) 715/2009 states that the regulatory authority should allow TSOs to recover all 'reasonable and proportionate' costs associated with their obligated activities arising in connection with ENTSOG activities. TSOs would seek comfort that the same principle applies to the additional costs associated with delivering any new transparency obligations arising from an amended Regulation 1775/2005.

Special Characteristics of National and Regional Markets

Due to historical reasons, transmission systems differ in terms of technical structure. This will have an impact on the amount of data individual TSOs will need to publish especially with regards to the data relating to the transmission-distribution interface. For this reason, and in line with the above section 'Cost-Benefit Assessment', ENTSOG proposes that some flexibility is allowed for the publication of that data at the national level. The exact scope of the data could be determined by the NRAs following a consultation with the stakeholders based on principles defined in the guidelines.

In addition, and in line with the above section 'Cost-Benefit Assessment', until applicable market models are harmonised and the markets are sufficiently liquid, ENTSOG proposes that the publication of operational data such as linepack / the amount of gas in the system is subject to an ex-ante approval by the NRA following an analysis of possible negative effects on the TSO, particularly regarding the increase of operational costs and putting the operation of the system in danger.

Implementation periods

The existing proposal does not specify any implementation periods which are essential for the implementation of such far-reaching transparency obligations.

We would like to note that some data are not available or extremely difficult to restore for a period going 5 years into the past. We would therefore seek comfort in explicit stipulation in the text that the historical datasets would only start being built as of the date of applicability. TSOs would nevertheless seek to provide as many historical data as feasible as of that date.

For reasons of clarity, it is also to be noted that market models change over time and historical data will reflect the situation at the particular moment in time to which they refer to.

A realistic (IT) implementation period for the proposed obligations is between 1 to 2 years depending on the specific data. An implementation roadmap seems appropriate taking into consideration also the availability of the historical data as mentioned above.

Availability of Data

Some information requested in the proposal is not available to the transmission system operators, for example the probability of interruptions. The calculation of such probability as envisaged in the proposal (for 2 years ahead down to daily or hourly periods) is virtually impossible. We believe that a better solution is to provide network users with access to all information relevant to such calculation, such as historical data on technical and contracted capacity, nominations and interruptions as well as future data on technical and contracted capacity and ex-ante supply and demand information. This would then enable network users to develop their own methodologies of calculation and make the best assessment of the level of risk associated with interruptible capacity. We believe, from our discussions with our customers, that it is indeed the preferred approach by the network users.

CONCRETE REMARKS

Definitions

The proposal introduces some new terms that should be properly defined so as not to create uncertainties and confusion. It concerns the following terms: virtual storage facility, blending, ballasting, capacity transfer, capacity assignment, traded market.

Furthermore, there should be consistency in the use of terms with the text of the whole Regulation, e.g. the term network users should be used throughout the text without being replaced by the term shipper and/or capacity user as well as the term (transmission) system operator should be used instead of the term network operator. The terms 'cross system balancing' as well as 'capacity usage rights' should be dropped.

'Real-time' data

The term 'real-time' should be used with caution. First, 'real-time' should only refer to data that is to be published in real-time, that is not to those that should be published ex-post after (usually) the relevant Gas-Day. If real-time publication is indeed required for some data, it needs to be specified how quickly the information needs to be updated (e.g. for available capacity data) or at what frequency (e.g. operational data). With regards to the operational data relating to the network control activities, it is to be noted that some of it is quite 'raw' reflecting possibly a significant degree of uncertainty, tolerances and errors. In addition,

systems where such data accrue do not function as reporting systems and substantial changes to the IT systems will be required.

It is to be noted that the publication of data in real-time may significantly increase the respective operational costs of the IT system.

Data relating to the relevant points between transmission and distribution systems

It should be noted that the publication of data concerning the relevant points between the transmission and distribution systems will enormously increase the amount of data to be published and so the IT development and operational costs. We recommend reconsidering the scope of the data required in light of the objective to be achieved and defining principles for aggregation of the respective interconnection points upon which the national regulatory authorities would decide the appropriate level for aggregation of data in their national systems.

Secondary Capacity Trading Statistics

It should be noted that the detailed information about secondary capacity trading as defined in the proposal may reveal confidential information (the parties to the trade may easily be identified) and such provisions might actually lead to reduced secondary capacity trading.

Linepack

It should be made clear which definition of linepack is meant in the text. The text seems to confuse two different definitions of linepack, namely the one used e.g. by National Grid which means the total amount of gas in the system, and the one that is provided in Directive 2003/55/EC which means the storage of gas in transmission systems. Furthermore, the Articles 3.4.(4)-(6) seem to be contradictory to each other with regards to the transparency obligations.

With regards to linepack, it should also be made clear what is meant by 'where linepack is offered for third parties'. Such statement may have very different interpretation so precision at this stage should avoid disappointments in the future.

Publication of any information on the linepack needs to be carefully considered, in particular any publication of 'real-time' data as, under certain circumstances, it may put the operation of the system in danger or be detrimental to the development of the market itself. Such information may be compared to publishing the balancing status of individual shippers leading to constant exposure of the TSO to the market.

Proposals for amendments

Amendment 1

Article 3.1.2 (g)

Text proposed by the Commission

Amendment

(g) **provisions** on balancing and imbalance charges

(g) **rules** on balancing and **methodology for the calculation of** imbalance charges

Justification

Amendment provides more clarity on what is required.

Amendment 2**Article 3.1.2 (l)***Text proposed by the Commission**Amendment*

(l) any procedures agreed upon by Transmission System Operators at interconnection points, especially those **describing how to facilitate** interoperability of the **grid**, agreed procedures on nomination and matching procedures and other agreed procedures that set out provisions in relation to gas flow allocations **and cross system balancing**, including the methods used

(l) any procedures agreed upon by Transmission System Operators at interconnection points **that are relevant for the access by network users to the transmission systems concerned**, especially those **relating to** interoperability of the **networks**, agreed procedures on nomination and matching procedures and other agreed procedures that set out provisions in relation to gas flow allocations, including the methods used

Justification

Amendment provides more clarity on what is required aiming at the same time at consistent use of terms.

Amendment 3**Article 3.3 (1)***Text proposed by the Commission**Amendment*

At all relevant points, transmission system operators shall publish the information as listed in paragraphs (a) to (g), **for all services provided including ancillary services and quality services (at least including information on blending, ballasting and conversion)**. This information shall be published down to daily or hourly periods - equal to the smallest reference period for capacity booking and (re)nomination and the smallest settlement period for which imbalance charges are calculated - on a numerical basis. If the smallest reference period is different from a daily period, information as listed in paragraph (a) to (g) shall be made available also for the daily period. This information and updates shall be published as soon as available to the **network operator ("real**

At all relevant points, transmission system operators shall publish the information as listed in paragraphs (a) to (g). This information shall be published down to daily or hourly periods - equal to the smallest reference period for capacity booking and (re)nomination and the smallest settlement period for which imbalance charges are calculated - on a numerical basis. If the smallest reference period is different from a daily period, information as listed in paragraph (a) to (g) shall be made available also for the daily period. This information and updates shall be published as soon as available to the system operator.

time")

Justification

The deleted part adds confusion as the objective of it is already covered by the fact that relevant points include points connecting infrastructure necessary to provide ancillary services and the type of services are explicitly stated under the respective letters.

The term real-time is misleading in the context of this provision and should be avoided. The provision 'as soon as available to the system operator' should suffice for ensuring that the information is published in a timely and speedy manner.

Amendment 4

Article 3.3. (1)d

Text proposed by the Commission

Amendment

d. the available capacity in both directions

d. the available ***firm and interruptible*** capacity in both directions

Justification

For the sake of consistency with 3.3 (1)b concerning the contracted capacity.

Amendment 5

Article 3.3 (1)f

Text proposed by the Commission

Amendment

f. information on the probability of interruption for all interruptible capacity, including the relevant information required for the calculation of the interruption probability. The probability of interruption for capacity offered and contracted within 2 years shall be published down to daily or hourly periods - equal to the smallest reference period for capacity booking and (re)nomination and the smallest settlement period for which imbalance charges are calculated. The probability of interruption for capacity offered beyond 2 years shall be published down to yearly periods

deleted

Justification

The TSOs should provide all relevant information for the network users to be able to calculate the probability of interruption according their own methodology. The provision of such data is ensured through the transparency requirements defined in Article 3.3. as well as those defined in Article 18(6) of Regulation (EC) 715/2009.

Amendment 6

Article 3.3 (1)g

Text proposed by the Commission

Amendment

g. quantitative information on **planned and unplanned** interruptions to firm services as well as the restoration of the firm services (a.o. maintenance of the system and the likely duration of any interruption due to maintenance). Planned interruptions shall be published at least 42 days in advance

g. quantitative information on **all** interruptions to firm services as well as the restoration of the firm services (a.o. maintenance of the system and the likely duration of any interruption due to maintenance). Planned interruptions shall be published at least 42 days in advance. ***Unplanned interruptions will be published after the interruption has occurred.***

Justification

To make the text clearer in terms of the obligation to publish information on planned and unplanned interruptions.

Amendment 7

Article 3.3 (2)

Text proposed by the Commission

Amendment

(2) At all relevant points, the information under paragraph 3.3.1(a)-(d) and (g) shall be published for a period of at least 18 months ahead

(2) At all relevant points, the information under paragraph 3.3.1(a), **(b) and (d) shall** be published for a period of at least 18 months ahead.

Justification

The TSO does not have nominations for 18 months ahead. In most systems, nominations are provided to the TSO on day-ahead basis.

The publication of information on interruptions is defined in the respective letter 3.3. (1)g.

Amendment 8

Article 3.3 (4)

Text proposed by the Commission

Amendment

(4) Transmission system operators shall publish measured values of the gross calorific value or the Wobbe Index at all relevant points, on a daily basis **and updated** at the latest three days following the actual measured flows

(4) Transmission system operators shall publish measured values of the gross calorific value or the Wobbe Index at all relevant points on a daily basis. For the sake of clarity, these values may come from metering stations that are not located at the relevant points but relate to them in operational terms. ***Preliminary figures shall be published*** at the latest three days following ***the respective Gas-Day. Final figures shall be published within three months after the end of the respective month.***

Justification

The amendment reflects the technical possibilities of TSOs taking into account complexities of different transmission systems.

Amendment 9

Article 3.4 (3)

Text proposed by the Commission

Amendment

(3) Regarding the balancing service of its system, each transmission system operator shall provide to each **capacity** user, for each balancing period, its specific preliminary imbalance volumes and cost data **per individual shipper**, at the latest one month after the end of the balancing period, with final data provided within three months after the end of the balancing period. The provision of this information shall respect confidentiality of commercially sensitive information.

(3) Regarding the balancing service of its system, each transmission system operator shall provide to each **network** user, for each balancing period, its specific preliminary imbalance volumes and cost data, at the latest one month after the end of the ***respective month where the*** balancing period ***occurred***, with final data provided within three months after the end of the balancing period. This is without prejudice to any period applicable for submitting complaints or correcting metering errors, as well to any different settlement periods that may be applicable. The provision of this information shall respect confidentiality of commercially sensitive information.

Justification

The amendment aims at consistency of terms as well as more precision with regards to the publication of the respective data.

Amendment 10

Article 3.4 (4)*Text proposed by the Commission**Amendment*

(4) Where linepack is offered for third party access, or where transmission system operators engage in traded markets, transmission system operators shall publish daily aggregate linepack forecasts on a day-ahead basis, for the end of each relevant gas day **and, if applicable, the linepack available to system users**. The national regulatory authority may decide to exempt the transmission system operator from this obligation

4) Where linepack is offered for third party access, or where transmission system operators engage in traded markets, transmission system operators shall publish daily aggregate linepack forecasts on a day-ahead basis, for the end of each relevant gas day. The national regulatory authority may decide to exempt the transmission system operator from this obligation

Justification

The original text seems to confuse two different definitions of linepack, namely the one that is used e.g. by National Grid and which means the total amount of gas in the system, and the one that is provided in Directive 2003/55/EC which means the storage of gas in transmission systems. In any way it should be clear what linepack is meant.

Amendment 11**Article 3.4 (5)***Text proposed by the Commission**Amendment*

(5) Where flexibility services, e.g. ~~deleted~~ linepack, are offered for third party access, transmission system operators shall publish daily forecasts on a day-ahead basis of the maximum amount of flexibility, the booked level of flexibility and the availability of flexibility for the market for the next gas day. The transmission system operator shall also publish ex post information on aggregate flexibility service utilisation at the end of each gas day

Justification

The original provision is not consistent with Article 3.4.(4). If a similar provision were re-inserted, it should be made clear what is meant and what is the relation between 3.4.(4) and 3.4.(5).

Amendment 12**Article 3.4 (6)***Text proposed by the Commission**Amendment*

(6) Transmission system operators shall publish, per balancing zone, in real-time the system pressure, as well as the minimum and maximum operating pressures of the transmission system. Alternatively transmission system operators shall publish, per balancing zone, in real-time the amount of gas in the transmission system and the minimum and maximum (operational) limits to the amount of gas in the transmission system.

Transmission system operators shall publish, per balancing zone, the amount of gas in the transmission system as assessed for the start of the Gas-Day and the forecast closing position for the end of the Gas-Day. Alternatively transmission system operators shall publish, per balancing zone, the aggregate imbalance position of all users at the start of each balancing period. Information on the closing position of either the aggregate imbalance position of users or the quantity of gas in the system shall be updated with a frequency that provides users with timely information that allows users to commercially optimize their position within each balancing period.

Justification

The provision is not implementable with regards to the pressure information as there is no one pressure in a transmission system. As for the amount of gas in the system, it is again necessary to make it consistent with any other provision concerning linepack and it has to be discussed in detail what the publication of such information would mean for the TSO in terms of operational costs and the safety of the system. The suggested rewording is more aligned to the goals of giving users the information they require to commercially optimize their position whilst helping the system to balance.

CONCLUSIONS

TSOs welcome this proposal and have committed to enhanced transparency for the benefit of the European gas market and are ready to provide to the market all relevant information. It should however be taken into account that the publication of some information may harm the TSOs and put the operation of their system at risk.

It should also be the rule that benefits arising from the information publication (at least) balance the related incurred costs. Such assessment should be made through an accurate and system-specific analysis.

For a successful implementation of the new transparency obligations, it is crucial that all the issues raised above are, in the adopted instrument, treated clearly and reflect the functioning of the gas market.