

## Responding to the Public Consultation

- 1. Do you agree with the problems that ERGEG has identified with capacity allocation and congestion management? Are there other aspects that should be taken into account?**

EconGas Deutschland GmbH welcomes ERGEG's steps towards solving the problems with CAM and CMP and would appreciate a soon progress.

It should be taken into consideration though, that especially in German market the problems in connection with CAM and CMP wouldn't occur to such a great extent if there wasn't the large number of the market areas.

- 2. The scope of ERGEG's principles and of the derived proposals covers bringing capacity to the market where there is currently contractual congestion. Do you agree with this approach?**

In our opinion ERGEG shouldn't abstract away CAM and CMP from other problems in the system (storage, market areas) as these several problems in the market are often interdependent or strongly associated with each other. Therefore problems should be resolved and coordinated in order to achieve an overall harmonious concept. In any event, EconGas Deutschland GmbH appreciates the effort to improve the market situation for new entrants.

- 3. In principle, European regulators consider FCFS allocation potentially discriminatory. Do you share this view? What do you think about the proposed mechanisms (OSP with subsequent pro-rata allocation or auctioning)?**

We definitely agree that the FCFS allocation is discriminatory. The chance of obtaining capacity is minimal for new entrants.

EconGas Deutschland GmbH considers that the auctioning of contractual capacity is not the right way to proceed as this option always favours the holder of the capacity.

Given the situation, that in most cases there is one owner of capacities this owner is in the favourable situation, that he is able to set the price for the market area by bidding the highest price for the auctioned capacities. This comes from the situation, that he is able to calculate an average price for the necessary capacity on basis of the old price, the new one and the portfolio effect. That will generate by principle a lower price than a competitor can offer by an auction and that at no risk because if all competitors are excluded he will be able to enforce his price wishes.

#### **4. What is the role of secondary capacity trading?**

The capacity trading on the secondary market causes many problems for new market entrants. It contains a huge element of uncertainty. There is no possibility of reserving capacities or rights to return.

And in view of the incumbents it means an additional source of revenue. It should be ensured that the prices reflect the actual costs. Thus, though ERGEG decided not to address prices in the document, we consider that this is a crucial issue to be regulated.

So concentrating only on secondary capacity trading is insufficient. The development and progress of primary capacity trading should receive the priority.

#### **9. Are the proposed measures suitable to facilitate development of liquid gas markets?**

Only conditionally. It should be taken into consideration that in this context there is a huge problem with access to storage facilities. A compatible and harmonious overall concept should be developed. The one can't work without the other.

#### **10. In your view, how important are compatible booking and operational procedures between adjacent systems?**

In our opinion the compliance of operational mechanisms and rules between adjacent systems is an essential aspect. The obligation to two separate capacity bookings between adjacent markets is extremely objectionable and bothersome for new market entrants.

#### **11. Do the proposed measures increase the efficient use of the system? What aspects would you support and like to see further developed?**

Most problems in connection with CAM and CMP in Germany are especially caused by the plurality of market areas, especially as only 2 out of 12 market areas are liquid and have trading points. There is no technical reason for the division of German natural gas grid into more than the two technically necessary market areas (L- and the H-Gas). Therefore there is no lawful legitimation for the existing plurality of the market areas in Germany. In fact, by legal experts the market areas are considered to violate both European and German law and principles. (just to mention a few provisions: Article 28 EC, Articles 4, 98 EC, §§ 1, 81 GWB .)The measures taken towards the reduction of market areas and the implementation of the market liberalisation by the German Regulator BnetzA are insufficient. The progress is too slow.

The new regulation is supposed to only mention principles and not to go into details, as ERGEG doesn't want to interfere in business decisions. In our opinion, clear rules are necessary. ERGEG shouldn't be too hesitant on this issue. It should be clearly defined what TSO's have to do to implement the Regulation, and they should be legally obliged to do so. The need to protect the free market, new market entrants and consumers should be given more importance and higher priority than the protection of incumbents and their business.

Construction and development of new pipelines shouldn't be postponed because of the financial crisis. It's the wrong place to save.

However, we recognize that this is a very difficult issue due to differences within EU-regimes and the general technical complexity of the gas market and we appreciate the tremendous work the ERGEG is doing.