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Basic Principles for Determining the Access Regime for Underground Gas Storage

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Background

Underground gas storage plays an important role in the gas market as it is both an important contributor to security of supply and a means of providing flexibility to the market thus allowing market parties to balance supply and demand. As one of the sources of flexibility in a well functioning market, underground gas storage competes to a large degree directly with other flexibility instruments¹.

Underground gas storage development is a capital-intensive business with long lead times requiring long-term commitment from regulators, investors as well as storage users. The interest of Storage System Operators (SSO) is to get a fair rate of return for operating, maintaining and developing their storage facilities. This rate of return must, as a minimum, reflect the risks assumed by SSOs irrespective of the type of Third Party Access (TPA) to storage facilities chosen by individual Member States.

The current Gas Directive² provides that where storage is an essential facility for the supply to customers, SSOs have to provide access to third parties. The Gas Directive gives Member States the possibility to choose between negotiated TPA (nTPA) and regulated TPA (rTPA). As a part of the Third Energy Package, the European Commission proposes a requirement for all Member States to set out and make public criteria defining when and how Third Party Access to storage applies.

Regardless of their choice of access regime, Member States must ensure that SSOs provide TPA in accordance with objective, transparent and non-discriminatory criteria to all storage users requesting access to storage, including affiliated companies.

In the present document, GSE wishes to formulate a number of high level principles for the determination of the access regime for underground gas storage. These may be used to provide a common frame of reference for Member States.

Principles for determining nTPA and rTPA

GSE believes that the choice of access regime should be based on a market assessment approach and recognizes the appropriateness of both regimes under different market circumstances. In addition, however, GSE believes that nTPA should be the preferred choice wherever market conditions allow as this regime best facilitates investments and further development of the market.

rTPA to storage facilities is appropriate where a competitive and properly functioning flexibility market doesn't exist, be it for reasons related to market failures, lack of sufficient comparable sources of flexibility, or lack of geological structures suitable for developing storage in markets where additional sources of flexibility are non-existent or very limited. However, when new storage facilities are developed that materially enhance competition in these situations, the whole market should be deemed as eligible for changing to nTPA to facilitate investment.

¹ Other flexibility tools include: production swing, flexible import contracts, imported LNG flexibility, interruptible gas contracts and trading hubs.

² Directive 2003/55/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas.

Regardless of the choice that Member States make when selecting access regime, access conditions must always allow SSOs to invest in maintenance necessary for the proper functioning of existing storage facilities as well as provide incentives for developing new storage capacity if and when required by the market. This not only helps enhance competition, but also improves security of supply, one of the top EU priorities as identified in the Second Strategic European Energy Review.

Below are key principles which should be taken into account by Member States when determining the access regime:

- **The national legal framework** taking into account whether it allows competition among sources of flexibility or establishes natural or legal monopolies;
- **Existence of a flexibility market** taking into account the level of competition and liquidity, whether flexibility can be imported from another Member State and whether transmission capacity is available;
- **Effective access to storage** taking into account the accessibility of capacity by all market players in line with provisions of the Guidelines for Good Practice for Storage System Operators (GGPSSO);
- **Effective and transparent price discovery** and valuation for storage and alternative flexibility instruments;

Conclusion

GSE believes that the above high-level principles provide a good framework for Member States to determine the appropriate regulatory regime. It must be noted in this regard – and the following table is an overview of the various possibilities – that under both rTPA and nTPA, SSOs must fulfill all obligations as defined by the existing EU and national legislation. These will be additionally strengthened when and if the Guidelines for Good Practice for Storage System Operators (GGPSSO) become legally binding, as proposed in the Third Energy Package.

When establishing the criteria for determining the access regime for underground gas storage, Member States should take into account the important role that gas storage can play in helping to create a well-functioning gas market and in ensuring security of supply. Of particular importance in this regard is the establishment of a healthy investment climate in which market players can develop in a timely manner sufficient quantities of storage capacity necessary to support general energy policy objectives.

| Table 1 Overview of regulatory regimes | Exemption from third party access under Article 22 | Negotiated third party access | Regulated third party access |
|--|--|--|--|
| <i>PRINCIPLES</i> | Ex-ante requirements for granting exemptions | Transparency and non-discrimination | |
| Regulatory requirements | | ERGEG guidelines for good TPA practice | |
| Role of regulatory authorities | Make/support the decision of granting or not an exemption. Monitoring of conditions if exemption granted | Monitors the access terms applied and the capacity allocation mechanisms | Monitors the access terms, the capacity allocation mechanisms and reviews the access tariffs |
| Risk | Borne by project sponsor | Borne by project sponsor | Borne by customer base and project sponsor (due to regulatory risk) |
| Investor's interest | Long-term visibility on income, return on investment and use of facility | Visibility on income and rate of return, favouring investment | Income and visibility depending on the regulatory authority's decisions |