

## NATURAL GAS Market Survey – questionnaire for legal persons and legal entities

Closing date: 30<sup>th</sup> September 2011

### Introduction

The development of the Polish gas market is not satisfactory. The deficiency of well – established wholesale gas market structure, able to generate price market signals and to create real conditions to change gas supplier is an obstacle to build up an efficient retail market. As a consequence, the monopolized gas market can not be released from an administrative gas price regulations due to not fulfilling conditions determined in article 49 of the Polish Energy Law Act.

All above-mentioned conditions and also the acceptance of *The State Energy Policy until 2030 and Action Plan for years 2009-2012* by The Council of Ministers that entrusted the President Of Energy Regulatory Office, with the preparation of The Road Map of gas prices release, require intensive actions oriented to built liquid and transparent wholesale gas market which is able to create market price of natural gas .

One of the ways of accelerating the process of demonopolization of gas market in Poland is to initiate development of competition through the Gas Release Program. Such Programs were applied in many European countries and are recommended by Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 *concerning common rules for the internal market in natural gas repealing Directive 2003/55/EC* (point 33 of Preamble). The Gas Release Program consists in releasing on wholesale market the part of natural gas which belongs to entity with monopolistic or dominant position altogether with transmission and storage capacities. By executing such Programs it is possible to change the gas market structure without violating its long – term contract obligations.

Taking into consideration all the above-mentioned conditions and also the criteria of assessing the competitive gas market defined in article 49 of the Polish Energy Law Act, the President of Energy Regulatory Office - after consultations with gas market users and according to their preferences and expectations - will prepare proposals to include in the Gas Release Program. The present *Survey* is a part of preparation of abovementioned Road Map of gas price release, and the results will help to prepare market oriented recommendations of actions with detailed schedule of implementation.

The *Survey* is based on the assumption that obligatory – national and EU regulations – are applied in the function of pro-competitive development of the gas market, and that completing the Program successfully demands earlier preparation and publication to assure the participation of all interested parties in the Program.

**The questionnaire is available to download from the Regulator's website: [www.ure.gov.pl](http://www.ure.gov.pl).**

**All questions related to the questionnaire might be directed to Mrs. Marzanna Kwiecień by phone +48 22 66 16 458, email address: [marzanna.kwiecien@ure.gov.pl](mailto:marzanna.kwiecien@ure.gov.pl) or to Mrs. Anna Podlasin by phone + 48 22 66 16 226, e-mail address: [anna.podlasin@ure.gov.pl](mailto:anna.podlasin@ure.gov.pl)**

**In any cases related to the Survey please give us a reference number as follows: "Gas Market –Survey".**

**Fulfilled questionnaire should be sent by post to the address: The President of Energy Regulatory Office, Chlodna Street 64, 00-872 Warsaw, Poland, and by e-mail: [dpk@ure.gov.pl](mailto:dpk@ure.gov.pl)**

The participation in the survey consists in giving answers for enclosed questions. Also, giving detailed answers is crucial for proper assessment and thus an appropriate actions related to further liberalization of Polish gas market might be designed. If - in your opinion - some questions are insufficient or not related to your activity, please make a note in a questionnaire and comment. Moreover, if – in your opinion - some issues should be added or were passed over, please give us a comment and ERO will make an effort of taking all of them into consideration.

**IMPORTANT:** If, in filled questionnaire there are some information that should not be published because of confidentiality, two versions should be sent: (CLASSIFIED) and (OPEN) where all trade secrets and confidential information are erased.

**Thank you for your cooperation!**

**Gas Release Program. When and how much?**

1a. *Gas Release Program* consisting in public auction of natural gas and carried out by PGNiG in 2012 on the basis that are accessible for all interested parties, should contain:

Please, propose:

5 % predicted yearly sale, starting with 2013 in three year contract,

10 % the rest of predicted yearly sale, starting with 2014 in two year contract,

15 % the rest of predicted yearly sale, starting with 2015 in one year contract,

Please, give us a comment: All contracts should last three years. Under the above proposals, all release arrangements would terminate at the same time in 2016 potentially leading to a situation where the traded market would not be liquid enough to fulfill all demand for spot gas. A series of three year contracts starting in 2013, 2014 and 2015 would allow a three year build-up and a three-year phase out. This would be similar to the Ruhrgas gas release programme implemented following the merger between E.On and Ruhrgas. A further option would be to allow successful bidders to reduce their commitment each year as they may be able to source alternative gas on the traded market. In the UK, contracts lasted up to 5 years, with the original volume scaled down from 100% to 80% in year 2, 60% in year 3 etc., with the option to exit the programme at the end of each year (but not to re-enter).

1b. Should natural gas within *Gas Release Program* be offered:

at determined entry point to transmission system?  Yes / No

at virtual point?  Yes / No

at the other system point?  Yes / No

Please, give us a comment: We note that the release programme was announced after awards of entry capacity had been made in the earlier capacity release programme. If gas is released at the virtual trading point, then in order to avoid holders of capacity being stranded, they should have the option to hand back capacity awarded if they subsequently receive release gas. Alternatively, there could be an option to have release gas awarded at the border such that their capacity can be used. We note that in future, the European Commission wants to encourage the trading of gas at virtual trading points rather than at borders. We strongly encourage that traders are consulted in establishment of the virtual trading point in a way that will encourage trading of gas.

1c. Should, in the framework of *Gas Release Program*, purchase of natural gas be preferred in terms of:

daily contracts  Yes / No

monthly contracts  Yes / No

quarterly contracts  Yes / No

half-yearly contracts  Yes / No

early contracts  Yes / No

sustained contracts (which one )Three yearly

Please, give us a comment: We would suggest a three yearly commitment, but with the ability to opt out at the end of each year. This would allow (a) the sales of gas to end users in annual contracts, which is normally preferred and (b) adequate time to build up a portfolio and for the traded market to develop such that follow-on gas is more likely to be available.

1d. In your opinion, what minimum and maximum quantity should be offered in a basic package (mln m<sup>3</sup>) in public auction to assure participation of interested parties/entities in the *Gas Release Program*?

minimum mln m<sup>3</sup>

maximum mln m<sup>3</sup>

1e. Should minimum number of participants be determined taking into account the purpose, which is substantial increase of participants on the wholesale gas market? If yes, please give us a number?

yes

no

number 5

1f. Will you be interested in taking part in *Gas Release Program* designed in such way and buy natural gas?

for further resale  Yes / No

as end-users  Yes / No

Please, give us a comment:

### **Gas Release Program. Price release problem.**

2a. Should Regulator release natural gas prices immediately, after public auction being conducted in the frames of *Gas Release Program* and discharge enterprises from the obligation to submit tariffs for approval for selling natural gas for:

wholesale customers  Yes / No

large gas customers\*  Yes / No

medium gas customers\*  Yes / No

small gas customers\*  Yes / No

households gas customers  Yes / No

\*on the assumption that the use of gas accounting to: large gas customers – over 25 mln cu m/year, medium gas customers - over 1 mln cu m/year to 25 mln cu m/year, small gas customers – up to 1 mln cu m/year.

Please, give us a comment: Competition is likely to begin in the sectors with largest consumers. The Polish authorities may favour some protection for smaller consumers in the early years. However, there should be a positive plan to deregulate prices in the smaller consumer sectors within a fixed period, when prices need no longer be published.

2b. Should natural gas prices be released, after a real introduction of natural gas into the market and on the basis of separate Gas Market Survey, conducted:

after a year  Yes / No

after two years  Yes / No

after three years  Yes / No

if, its results confirm fulfillment of the competitive gas market criteria, defined in art. 49 of Energy Law Act.

Please, give us a comment: An annual survey of progress of competition would in any case be useful to URE to allow consideration of price publication and other measures as the market develops.

**Gas Release Program. The impact on developed infrastructure use.**

3. What will be the impact of *Gas Release Program* on the use of developed transmission capacities at Lasow and Cieszyn entry points and the launch of LNG Terminal located in Swinoujscie in 2014?

positive

negative

neutral

Please, give us a comment: This will depend on whether gas is released at the entry point or at a virtual trading point. A release at the virtual trading point might strand some capacity that has already been awarded, and discourage future participation. However, a release at border points may freeze out parties who did not obtain capacity. In the longer term, gas will need to compete with imported gas, and may be replaced by imported gas, as the release gas programme terminates. A mixed portfolio is likely to give maximum flexibility for new entrants. However, as stated above, a release at a virtual trading point may crowd out imports in the early years. This should not deter a release at the VTP, as long as consideration is given to capacity holdings..

**Gas Release Program. Dissemination of information.**

4a. What way/method should be choose to announce *Gas Release Program* and make project the most effective (choose more than one)?

announcement made by PGNiG (website),

mass media eg. polish and foreign newspapers

announcement on the Regulator's website

announcement on the ACER's website

announcement on the EFET's website

other ways (please, specify.....)

PGNiG website

4b. When this information should be announced, to make the Program most effective:

With as much notice as possible - min 4 months.

Please, comment your proposal:Marketing programmes take time to build portfolios.

**Gas Release Program. Restrictions and formal prerequisites of realization**

5. What legal barriers might be faced with while implementing the *Gas Release Program* from binding/valid regulation, on the assumption that the gas purchase is realized on the

territory of Poland which implicates that a buyer is not binded by *the act of 16 February 2007 on stocks of crude oil, petroleum products and natural gas, the principles of proceeding in circumstances of a threat to the fuel security of the State and disruption on the petroleum market*; and regulation of Council of Ministers of 24 October 2000 on the minimum level of diversification of gas supplies from abroad:

:

Energy Law Act

Please, specify Based on experience in other markets, necessary changes can be expected. Currently we do not have sufficient knowledge of Polish legislation to comment in detail where changes will be required.

Regulation concerning detailed conditions of gas system functioning

Please, specify As above

Tariff regulation

Please, specify As above

Public Procurement Law

Please, specify

other (please, specify):

6. Should other than *Gas Release Program* methods be considered to achieve substantial development of wholesale gas market in Poland?

Yes / No

If yes, please give an example/examples.

Accompanying capacity release and customer switching programmes should be considered.

7. Does realization of natural gas public auction carried out by PGNiG in the frames of *Gas Release Program* consulted with the Energy Regulatory Office and the Office of Competition and Consumer Protection in organizational and legal conditions of 2011, might assure development of competition and demonopolize gas sector in Poland?

Yes / No

Please give us comment: This is likely to be a single measure that will help, but will not alone be sufficient. Ongoing reform of access rules and other measures will be necessary (and in any case will be required by European legislation).

8. Should realization of *Gas Release Program* be implemented on the basis of administrative decision of the President of Energy Regulatory Office or the President of Office of Competition and Consumer Protection after implementing necessary legal basis?

Yes / No

Please give us a comment: Either is suitable, and joint competences may also be appropriate. We would note that in other member states, the energy regulatory authority is usually made responsible.

9. Would you like to make an additional comment on the realization of *Gas Release Program* or issues related to liberalization of gas market in Poland planned for 2013-2014?

### INFORMACJE ZASTRZEŻONE

#### IV. CONTACT DETAILS

Please, give us a name, surname address, telephone number, fax number of person responsible for fulfilling the survey, in case of a need of additional information and explanation.

Doug Wood BP Gas Marketing Ltd 20 Canada Square London E14 5NJ  +44 20 7948 4458 (t)	UK London 30 September 2011	
<i>name, surname address, telephone number, fax number of person responsible for fulfilling the survey</i>	<i>country, city, date</i>	<i>Signature of authorized person</i>

**Thank you for Your cooperation!**