

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

Closing date: 30th 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.

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 or to Mrs. Anna Podlasin by phone + 48 22 66 16 226, e-mail address: 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

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:

100 % predicted yearly sale, starting with 2013 in three year contract,

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

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

Please, give us a comment: We propose that 100% of the volume that is accessible for all interested parties in the *Gas Release Program* (and which will have to be defined by the authorities) shall be offered in 2013 already. The volume included in the *Gas Release Program* should be sufficiently large to foster effective competition in the market; therefore we propose that the volume up for action covers at least 10% of Polish gas consumption in the beginning. This volume should increase over time.

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: Statoil would prefer gas to be offered at a virtual point. However, as such point does not exist in Poland as of now, offering gas at a determined entry point could constitute a second-best and transitory option. Polish authorities should strive at preparing the regulatory framework for the establishment of a virtual trading point as soon as possible.

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)

Please, give us a comment: [We assume the last category means yearly (not early) contracts.]

1d. In your opinion, what minimum and maximum quantity should be offered in a basic package (mln m³) in public auction to assure participation of interested parties/entities in the *Gas Release Program*?

minimum 50 mln m³

maximum 300 mln m³

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

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: Statoil will only participate in the Gas Release Program if gas prices at least for wholesale and large customers will have been liberalised beforehand. Given obligations to liberalise gas prices under EU legislation, we assume that approval of tariffs will not be necessary any more when the Gas Release Program starts. As the end prices of auctions are commonly not published in the case of Gas Release Programs in the EU, we would oppose publication of such prices in the case of the Polish Gas Release Program.

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:

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:

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.....)

The Gas Release Programme should be announced in the most transparent way possible, making sure that all interested parties receive the information at the same time. PGNiG should also announce it on their website (no box in the field above).

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

The information should be announced at least one month before the start of the auction; the earlier, the better.

Please, comment your proposal:

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 All the necessary changes to the Energy Law should be implemented before the Gas Release Program starts. For instance, traders should have effective access to transport and storage capacities, which is allocated in a transparent way before the Program starts. In addition, licensing requirements will have to be simplified to make participation of a large number of companies possible; notably the requirement for gas traders to have gas stored in Polish storage sites should be abolished.

Regulation concerning detailed conditions of gas system functioning

Please, specify See comments above.

Tariff regulation

Please, specify Tariff regulation should be abolished before the start of the Gas Release Program (see comment on 2a).

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.

As indicated in 5., other changes in the regulatory framework of the Polish gas market will need to take place in order to foster real competition in this market. Correct implementation of the EU's 3rd energy package, including Framework Guidelines and Network Codes, will be crucial in this context. However, when it comes to making gas available to new entrants, only the Gas Release Program should be used - for the sake of simplicity and transparency.

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: A Gas Release Programme that is implemented in a transparent and non-discriminatory manner would certainly contribute to the development of competition in the Polish gas market. It would constitute a good start - however, as our remarks above show, this measure would be far from sufficient to achieve a competitive market.

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: Statoil does not have any preference when it comes to the Office in charge of setting the regulatory framework for the Gas Release Program, as long as all decisions in this context are done in a transparent and non-discriminatory manner. The choice of the public authority best-suited to guarantee an efficient implementation of the Gas Release Program shall be up to the government.

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?

Yes / No

Comment:

1) Price liberalisation, in particular for wholesale and large gas customers, is a necessary prerequisite to make competition happen in the Polish gas market. Tariff approval needs to be abolished before the Gas Release Program starts.

2) The establishment of a Virtual Point / Gas Exchange in Poland is necessary to see effective emergence of competition.

3) Statoil believes that it is important that backhaul capacity in Mallnow becomes available as soon as possible. Entry capacity that has been released at Mallnow so far will not be sufficient to see the necessary level of competition and liquidity emerge.

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.

Christian Schülke European Regulation Adviser Gas Regulatory Affairs	Brussels, 30 September 2011	
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<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!