

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:

- 30 % predicted yearly sale, starting with 2013 in three year contract,
- 40 % the rest of predicted yearly sale, starting with 2014 in two year contract,
- 60 % the rest of predicted yearly sale, starting with 2015 in one year contract,

Please, give us a comment:

According to the annual report of PGNiG S.A. (POGC) for the year 2010, 4.22 billion cubic metres of sold gas go to the segment of local production (E&P). These are 30 % of the entire sale. According to this we propose to make free for Polish market domestic production.

It's not acceptable situation where only the gas from long-term contracts would be subject to auctions. As a result, the monopolist remaining with the gas from inland production would be exceptionally privileged on the market.

We suggest also that the proposed percentage be cumulated with the expansion of the market and increase of competitiveness. Rigid duration of contracts (3 years etc.) should not be applied. Please note that the auction formula is characterized by a price which is valid for a short time only. Therefore, one calendar year should be the maximum contract period. In this structure, auctions would take place every year and the volume of "released gas" would be increased.

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:

The priority here should be to implement the entry-exit system and transportation fees in accordance with that. It makes sense to offer auctions only in the event of existence of a virtual trading point. Gas trading entities would not have as many problems to ensure appropriate transmission capacities as they do today.

Please note that to increase the competitiveness of the market, the transportation costs must be low enough. At present, the operator provides the service of gas transmission from one point to another and charges a fee for that (relatively high compared to other countries). If the entry-exit system were implemented, the same volume of gas would be physically transported through gas pipelines but there would be many more trading transactions, which would often not be related to physical flow. Therefore the transportation fees should be significantly reduced. The present

tariff of the TSO is characterized only by the fees for entry and exit, while the rules of access to the transportation capacities still have not been adjusted accordingly.

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: Certainly the contracts should not exceed one calendar year.

Please note that at present, the contracts of gas sale are executed for one year because a liquid market and significant participation of competition are missing; if auctions are conducted, it will be necessary, from the customer's point of view, to conduct the procedure for the change of supplier. It is obvious that the customer will be interested in a contract which will replace its present contract for supplies from the present monopolist supplier - a yearly one in this case.

The profitability of realization of short-term contracts depends mostly on the operator providing the services of gas transmission. At present, the transportation fees for short-term services are exceptionally high. Applying for short-term transmission capacities is also burdened with the obligation to apply for them long in advance. Therefore the interest in short-term contracts may be insignificant. In this light it should be important in the first place to adjust the rules of operators, to reduce the fees and next to carry out the liberalization of the market.

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 0.1 mln m³

maximum 10 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

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: The prices should be liberated at the latest after a year after the auction had been carried out, or even earlier from 1.01.2012. It results from the fact that the price regulation may exceptionally impede trading and prevent success of the entire program.

As we see it, the idea of the program is to trigger the increase of competitiveness and to enable free trade. Abstaining from the removal of price regulation may render this goal fruitless.

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: The liberalization will certainly have positive impact on the use of transmission capacities at new gas connections. Making gas volumes available inland does not mean that the import from abroad will be withheld. In Poland, there are no sufficient gas quantities to cover the local demand, therefore import is a must.

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.....)

Information should be published in the press because the group that will benefit from it most are gas consumers. Now the knowledge of gas market and its rules is poor; it's worth popularizing among interested consumers.

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

3 months

Please, comment your proposal: The auction should be carried out in June-July 2012 at the latest. It results from the fact that gas consumers contract gas from the monopolist mostly in August of the preceding year. New sellers should be given time to enter into contracts of sale with the present gas consumers. The time of three months suggested above corresponds to the time necessary for actual change of supplier.

Guidelines and rules should be prepared by URE because leaving the matter in the hands of the monopolist awakes the fear of unreliable procedure.

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 - the possibility of division of a comprehensive agreement should be available faster and simpler

- the law should define the virtual trading point as a trading platform
- the storage system operator should be an independent and separate entity
- the change of supplier should be described more clearly
- the role of the "seller ex officio" should be clearly described

- the storage law should be changed because it makes the availability of storage capacities a necessary condition of gas trade. It is almost impossible to obtain such capacities now.

Regulation concerning detailed conditions of gas system functioning

Please, specify - the accounting should takes place in kWh and the gas day should be changed from 22-22 to 6-6 from 1.01.2012. The regulation does not state clearly that the settlements should be carried out in energy units. This element should be put into more precise details because at present balancing shall be in energy units, and settlements in cubic metres, which is unacceptable.

- insufficient description of change of supplier
- imbalance limits are to low and give no chance of operational trade
- the fees under the Polish network code IRiESP derived from this regulation are very high and should be reduced
- missing entry-exit rules
- too high limit of connection capacity to the transmission network (5.000 cubic metres per hour). It results in higher expenses for small and medium enterprises because they are forced to connect to the distribution network (although the transmission network is near) and bear the increased costs of gas purchase and transmission

Tariff regulation

Please, specify This regulation should be changed to release gas prices for industrial customers.

- The issue of "gas price" offered at an auction is missing in the rules of the program. Please note that it is the basis of an auction's success. Now the market price in Poland is the tariff price of PGNiG. Such price may not be offered in an auction. There should be set an initial value below the market price. As aforementioned gas prices should be released from 1.01.2012.

Public Procurement Law

Please, specify

other (please, specify): Network codes for the transmission network and transit pipelines' system (IRiESP and IRiESP SGT) should be one document. The entry-exit system should be introduced at both networks.

The virtual trading point should refer to the distribution networks as well. Otherwise it would be discrimination of gas consumers in the area.

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.

removal of gas prices' regulation

expansion of border connections

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: It might, on condition that an appropriate price level below PGNiG's tariff prices is reached. The operators' rules must be flexible enough and transportation fees low enough.

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: URE should be in charge of the procedure as an independent Third Party to guarantee objective and fully transparent procedure .

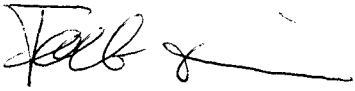
9. Would you like to make an additional comment on the realization of *Gas Release Program* or issues related to liberalization of gas market in Poland planned for 2013-2014?

Yes / No

Comment:

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.

VNG – Verbundnetz Gas AG, Falko Thormeier, Head of Gas Sales Poland/Hungary, phone: +49 341 443 2838 fax: +49 341 443 2833, email: Falko.Thormeier@vng.de	Germany, Leipzig, 28.09.2011	
<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!