

## 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:

- % 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: Ideally gas release program should be organised annually and offer gas supply for the following gas year. This will allow wholeseller to annually match his sales portfolio and supply portfolio as it's expected most of the new contracts would be signed for 1 year only.

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: Offering gas at Transit/Distribution virtual point (VP) will help to boost liquidity at the VP and will allow the winning participant to decide if he wants to nominate gas to distribution network exit (in case the gas sold to end user), leave it and trade at the VP or nominate to exit from Transit system in case the winning participant wants to evacuate the gas from Poland.

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: If Gas release program is offered on a longer than 1 year period contracts it may be difficult to match with expected annual sales contracts (as experienced on other markets). So the winning participant will carry the volume and price risk which every trading company will include in the bidding price. There is no need to offer shorter Gas Release contractual terms as the within the year balancing should be done on the VP (again this will help to create liquidity at the VP).

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 25 mln m<sup>3</sup>

maximum 100 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

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: Comment referring to section 1e: the total volume could be divided into lots, preferably in different sizes (example: if 1.5 bcm is being offered, there will be 5 lots \* 100 mcm, 10 lots \* 0 mcm and 20 lots \* 25 mcm, the best would be to offer lots in energy units rather than volume units). To boost the competition during the auction it may be considered to set a maximum number of bids in each volume category single entity could bid for. But also have mechanism in which unsold lots are re-auctioned.

Comment referring to section 1f: we would be interested to participate provided the gas/power trading licence could be obtained without the need to establish local entity or representative office. The other very important factor is availability of the entry/exit capacity to move the gas to end users or transit system.

### **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: The regulated prices are one of the key factors that limits competition on the Polish market. The prices should be freed ASAP even before the Gas Release program. Otherwise if the the gas release price level is set at regulated price level and prices change as a result of regulation being phased out the winning bidder will carry price risk which he can't manage as it depends solely on the regulator. To make the transition period from regulated to market price transparent regulator should consider using the price formula which will be the maximum price for the each segment. The formula should reflect (back to back) the weighted average cost of current supply portfolio (domestic production, Gazprom contract plus the contracts for supply from German/Czech side) of gas to Poland.

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: Regulated prices are one of the reasons for limited interest from other gas wholesalers to enter the market. Sooner the price regulation is removed and the price is set by the market the better for liquidity at VP and end user.

**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: If price will not be regulated the impact of the liquid trading market in Poland will drive investments in interconnectors with neighbouring countries and will attract more independent LNG suppliers to the Swinoujscie regas terminal interested in Long Term supplies to end users and wholesalers but also spot players willing to trade at the VP.

**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.....)

Heren, Gas Matters

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

at least 6 month prior to the Gas Release auction date. This will allow to facilitate first discussions with potential customers. Rules of the auction and contracts for the gas purchase should be published together with the announcement.

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

Regulation concerning detailed conditions of gas system functioning

Please, specify

Tariff regulation

Please, specify

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.

sufficient capacity linking Poland with neighbouring countries, available on short term basis, creation of the gas trading platform which would facilitate gas trading and balancing, capacity entry/exit system and fast/easy on-line system to book the transit/distribution capacity, virtual hub at which all the trading/balancing takes place from which you could enter the distribution system and exits from the country transit network.

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: The gas release program should aim to increase the gas competitiveness in Poland. The winning participants should have the fair chance to compete with incumbent therefore the gas release price offered should reflect the market reality. Example: if the price of gas release is equal to the highest contract price of the current supply portfolio of the incumbent the winning participant will not have a chance to compete with the incumbent as incumbent have cheaper sources of gas in his portfolio which lower his supply portfolio price. Also if the

incumbent artificially blocks the capacity by booking and not using it the competition on the market would be restricted and participation in gas release program limited.

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:

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: Together with the Regulatory Manager of Shell Energy Europe we are keen to discuss our comments and explain them in more details if necessary.

#### **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.

Marek Franczak Commercial Manager marek.franczak@shell.com tel +447540558713	London, UK 30 September 2010	
<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!**