

# RESPONSE TO PUBLIC CONSULTATION

on

ERGEG's Public Consultation Paper on

Draft Guidelines of Good Practice on Open Season Procedures (GGPOS)

17.1 2007

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## Preface

This document presents comments of RWE Transgas Net, s.r.o., the holder of the transmission licence in the Czech Republic, on the Draft Guidelines of Good Practice on Open Season Procedures, a consultation document prepared by ERGEG (hereinafter referred to as "Paper").

## General Comments

Based on the present EU legislation there are no supporting arguments for setting up a sole mechanism to assess demand for capacity. In this respect, the open season procedure should not become the only transparent market test that allows TSOs to gauge how much infrastructure the market wants. In case the transmission system is not able to meet reasonable long-term demand for the transportation of gas, TSOs should have the right to choose the open season procedure as one of possible transparent and non-discriminatory alternatives to facilitating investment in new infrastructure.

Likewise, the Directorate General for Energy and Transport of the European Commission in Art. 3.2.3. point (31) 2. of the Draft Explanatory note of DG Energy & Transport on Article 5, paragraph 1 and 21 as well as Annex 2.1. of Regulation (EC) No 1775/2005 of the European Parliament and of the Council of 28 September 2005 on conditions for access to the natural gas transmission network (Capacity Allocation Mechanisms) views the open season as a capacity allocation mechanism *"which should be principally applied, when it comes to new infrastructure entailing a new line, i.e. connects two points not connected so far. In addition and where expected market developments (growing demand) including possibly other*

*considerations (e.g. security of supply) justify, the launch of an open season to identify market demand for capacity might be appropriate.*”

## Particular Comments

### Point 19

We would like to note that the proposal to have the relevant regulatory authorities to verify the process may generate delays in the whole process.

### Point 20

The open season notice is overly prescriptive. This is not suitable and indeed would be detrimental in cases where market based mechanisms and non-discriminatory capacity allocations already provide for sound investment signals.

### Point 27

We understand the concerns of ERGEG in respect of possible long-term congestion caused by full subscription of the new capacity by long-term contracts. There may however be cases where it may not be possible to take into account short-term capacity bookings as it would not be effective and therefore not in line with Article 8(1)(a) of Directive 2003/55/EC.

### Point 34

The coordination and compatibility of offered services among TSOs are important. However, this should be left at discretion of each TSO, as each TSO is responsible for applying market rules and tariff structures approved by its NRA only on its (national) system.

## Responses to ERGEG questions

### Point a.

The “open season” procedure should not be understood as the only possibility how to gauge the market demand for additional capacity. TSO has at its disposal other market-based mechanisms such as “open subscription period”. The situation can vary from a TSO to TSO and depends also on the particular economic and other conditions influencing the TSO’s decisions. It is therefore necessary to grant sufficient flexibility to TSOs in choice of their tools. It is also important to bear in mind possible economic and bureaucratic burdens imposed on TSOs when organizing “open season”.

### Point b. and c.

The information requirements listed in point 20 is in our view too prescriptive. Some information required is also superfluous such as the requirement to publish the general route of the project and other alternative routes in an Entry/Exit system. We would like to stress that TSOs want in its own will publish as much information as possible in order to attract enough potential network users. We cannot think of a reason why TSOs would want to hide important information from the market.

### Point d.

We do not see any reason supporting the need for regulating coordination of adjacent system operators. As business entities reacting to the market demand, TSOs have every incentive to coordinate their efforts in projects which are economically viable. Having said that, it must also be noted that NRAs need to set the tariff methodology and structure so as not to discourage TSO from their efforts. In this respect, the “revenue cap” methodology is to be considered as quite discouraging.

### **Conclusions**

We would like to conclude that the open season procedure is only one of several tools which TSOs have at their disposal in order to test the level of market demand for new or additional capacity. The initiation of an open season procedure should be therefore stipulated as a right not as an obligation.