

**GUIDELINES FOR GOOD TPA PRACTICE.
- SECOND VERSION**

DRAFT FOR DISCUSSION
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1. Background.

The 5th meeting of the European Gas Regulatory Forum (the Madrid Forum) on 7-8 February 2002 adopted a set of Recommendations on Guidelines for Good Practice in relation to TPA Services, Tarification, Balancing etc. These recommendations aimed at (i) clarifying the roles and responsibilities of the main parties in gas transportation; (ii) ensuring the application of the principle of non-discrimination, (iii) facilitating cross-border trade and customer choice through competition in the internal market, and (iv) avoiding distortions to trade.

While the recommendations on guidelines for good practice have not been legally binding they have been intended to contribute in the short and medium term to achieving a fully operational internal market for gas.

The 5th meeting of the Madrid Forum stressed the importance of actively monitoring on a regular basis the extent to which gas TSOs meet the high standards outlined in the guidelines. The Forum also stressed the need to benchmark actively the adopted guidelines and invited the Commission, in close collaboration with all relevant stakeholders, to keep the guidelines under review with the objective of their regular updating.

The Commission presented a first overview report on the compliance with the Guidelines for Good Practice in October 2002. While the report demonstrated considerable progress in implementing the Guidelines it also revealed a significant lack of compliance as well as uncertainty and differences in compliance. On this basis, the report recommended, in order to avoid ambiguity in the interpretation of the Guidelines for Good Practice and in order to ensure a level playing field and to raise standards at least to levels which are already industry practice in Europe when providing third party access to the gas system, that the Guidelines for Good Practice should be clarified and reinforced.

The revised Guidelines for Good Practice set out below represent the first updated version of the initial Guidelines.

2. Main roles and responsibilities of Transmission System Operators (TSOs) and network users

Within the new regulatory and market environment of the internal market for gas characterised by a multitude of market players and unbundling of integrated gas companies, security of supply can no longer be assumed to be the responsibility of one single party.

A new chain of responsibilities with regard to security of supply and infrastructure planning between public authorities and the different market players including network users and TSOs therefore needs to be enshrined in order to ensure certainty in this respect. Obligations must be allocated clearly to the different players and be appropriate to their role.

In this respect Member States have an important role in monitoring, consulting on and defining security of supply output standards and the role and responsibilities of the different

market players within a public policy framework. Within this framework it should be left to the market players to develop the most efficient solutions to meet the defined output standards and to fulfil their obligations in this respect.

The main roles and responsibilities, which TSOs and network users are expected to play in this new context may be summarised as follows:

2.1 Main roles and responsibilities of TSOs:

1. TSOs, be they separate entities or unbundled transmission functions of integrated companies, are responsible for the provision of adequate technical transmission capacity and the technical integrity and safety of network operations.
2. The minimum role of the TSO would involve the maintenance, operation and development of its network including sufficient long-term investment planning based on proper consultation of potential system users and, if any, guidelines by national authorities; provision of non-discriminatory access to its network moving or processing any network users' natural gas within its system in fulfilment of a contract or network code (see section 3 on TPA services); co-operation with other TSOs and operators of other connected systems (including LNG and storage facilities and distribution networks) to ensure interoperability between different systems and efficient and non-discriminatory procedures facilitating trade and allowing network users to transport natural gas throughout the EU transmission network; maintain physical system balance (residual balancing role) and the non-discriminatory provision to all network users of the information they need for efficient access to the network.
3. TSOs should ensure interoperability between different systems inter alia by entering into both standardised interconnection agreements (IAs) and standardised operational balancing agreements (OBAs) at any interface. IAs and OBAs must be designed to facilitate competition and the services offered under these agreements must be published.
4. TSOs shall be equipped, either through ownership control of assets and gas or through formal contracts or agreements, with sufficient system resources including natural gas necessary for carrying out their functions as transmission system operators including notably its residual balancing role. The system resources available to the TSO in this respect shall be transparent.
5. There shall be sufficient separation and functional independence between system operators (including transmission and storage system operators) and network users including the supply and trading businesses of vertically integrated companies in order to ensure that system operators do not have any conflict of interest when providing infrastructure services and do not provide any commercial advantage to an affiliate. TSOs shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded. An annual report, setting out the measures to ensure this, shall be submitted to the relevant national regulatory authority and shall be published.

2.2 Main roles and responsibilities of network users:

1. A network user is a customer of a TSO and would sign the relevant network code or enter into contracts with TSOs for shipping of gas. End-use customers, producers, suppliers, traders and shippers may choose to be network users.
2. Network users are responsible for making nominations to the TSO(s) and commercial balancing of their gas in-put and off-take from the system in accordance with prevailing contractual specifications, technical rules, agreed procedures and non-discriminatory and broadly cost-reflective balancing rules.

3. Recommendations on guidelines for good practice regarding necessary TPA services:

In order to ensure non-discrimination between related undertakings and third parties, avoid potential distortions to trade, and facilitate gas trade and liquidity, TSOs should:

1. Offer unbundled TPA services for access to pipelines and LNG facilities as well as all necessary ancillary services to the extent that such facilities are operated by the TSO. Ancillary services include, inter alia, allocation, blending, quality monitoring and conversion, metering, flow control and balancing. Operators of gas storage facilities, including TSOs insofar as TSOs operate gas storage facilities or any equivalent flexibility instruments, shall offer unbundled TPA services (including injection capacity, storage volume and withdrawal capacity) on a non-discriminatory basis to such facilities when such access is necessary for providing efficient access to the transmission and/or distribution networks;
2. Offer the same range of services on the same conditions according to the principle of non-discrimination to any eligible third party within the EU as to marketing affiliates on a formal and verifiable basis. Offer these service on the same contractual basis to all network users, either using standard contracts or a common network code;
3. Co-operate with other TSO's and, where relevant, other system operators, on all relevant interoperability issues to develop Interconnection Agreements (IAs) and inter-TSO operational balancing agreements (OBAs) on a standardised and transparent basis. IAs shall cover energy specification (including pressure, temperature and chemical gas specifications), change of flow rates and the operation of the interconnection point between the network operators. OBAs shall cover the operation of the network operators' energy accounts at the interconnection point. OBAs shall be used to pool small operational imbalances ensuring that network users are allocated all their full nomination, unless there is a significant net shortfall (e.g. as result of a Force Majeure event);
4. Actively pursue harmonisation or convergence to facilitate interoperability e.g. with regard to gas quality specifications where practical and economic. TSOs will actively support the activities of EASEE-Gas aimed at streamlining gas transportation and trading procedures across the EU;
5. Offer both long-term and short-term firm services including capacity services down to a minimum period of one day and non-firm service down to a minimum period of one

day. The total fee for any transportation contract with a shorter duration than a reference period (e.g. year, month and day) shall not, unless approved by the relevant national authority, exceed the fee for a transportation contract with such reference duration;

6. Develop TPA services and access rules so that facilities and ancillary services can be used to meet obligations in neighbouring regimes on a non-discriminatory basis, subject to availability of such facilities and services and to technical and operational feasibility;
7. Design capacity services to facilitate trading and re-utilisation of capacity and in a way, which would not hamper capacity release;
8. No later than 1 April 2003, European TSOs will - in close consultation with EASEE-Gas - standardise nomination procedures and units of measurement and develop information systems and electronic communication means to provide adequate data to network users and simplify transactions (such as nominations, capacity booking etc.). Formalised request procedures and response times should be harmonised among European TSOs according to best industry practice with the aim of minimising response times and provide for on-line screen-based capacity booking and confirmation systems, nominations and re-nominations no later than 31 December 2003. The standardised procedures shall be applied on a non-discriminatory basis to all network users including affiliates. Network users shall not be separately charged for information requests and transactions associated with nominations and capacity booking, including nomination changes;
9. Co-operate with other TSOs in co-ordinating the maintenance of their respective networks in order to minimise any disruption of transmission services to network users and TSOs in other areas in order to ensure equal benefits with respect to security of supply including in relation to transit. TSOs should publish at least once a year all planned maintenance periods that might affect gas flows and the corresponding operational information with adequate advance notice.

4. Recommendations on guidelines for good practice regarding capacity allocation and congestion management:

1. TSOs should implement and publish non-discriminatory and transparent capacity allocation mechanisms and, when applicable, congestion management procedures, which should (i) facilitate the development of competition and liquid trading of capacity; (ii) provide appropriate economic signals for efficient and maximum use of technical capacity and facilitate investment in new infrastructure; (iii) avoid specific disadvantages for new entrants; and (iv) be compatible with the market mechanisms including spot markets and trading hubs while being flexible and capable of adapting to evolving market circumstances.

These mechanisms and procedures should be reviewed and approved by the relevant authorities prior to implementation. Revenue from congestion management systems should not create disincentives to reduce congestion.

2. Network users, notably those who may be interrupted, shall be advised about the type of circumstances that could affect the availability of contracted capacity.

In case difficulties in meeting contractual delivery obligations should arise due to short term congestion, TSOs should notify network users which might potentially be affected and seek a non-discriminatory solution without delay.

5. Recommendations on guidelines for good practice regarding transparency requirements:

In order to ensure non-discrimination between related undertakings and third parties with regard to access to information, TSOs should:

1. Publish in national language(s) and English on the Internet the main conditions of all services, including tariffs and imbalance charges and maps of their network identifying all entry and exit points interconnecting its system with that of other TSOs. TSOs shall publish at least the following information about their system and services:
 - a) detailed and comprehensive information about all services offered and the charges for these;
 - b) the different types of contracts available for the services offered;
 - c) the flexibility and tolerance levels included in transportation and other services without separate charge and as well as any flexibility offered in addition to this and the corresponding charges;
 - d) a detailed description of the gas system of the TSO identifying all connection points with other systems;
 - e) as applicable, the network code and/or the main standard conditions outlining the rights and responsibilities for all users of the gas system of the TSO;
 - f) the capacity allocation, congestion management and anti-hoarding and reutilisation provisions;
 - g) standard documents and procedures in relation to the use of the gas system of the TSO including definitions of key terms;
 - h) the rules applicable for capacity trade on the secondary market;
 - i) the rules applicable for connection to the system operated by the TSO;
 - j) gas quality and pressure requirements.
2. For the different services provided, publish no later than 1 January 2003 physical, booked and available capacities for daily periods at all relevant points including key points in the transmission network, LNG terminals and underground storage facilities and all points of interconnection with other TSO systems on the Internet on a regular/rolling basis and in a user-friendly standardised manner. Where feasible, capacities for entering or exiting the system in counter flow shall also be published.

TSOs shall publish at least the following information about the capacity situation of their systems at all relevant points including key points in the transmission network, LNG terminals and underground storage facilities and all points of interconnection with other TSO systems:

- a) the maximum technical capacity;
- b) the total contracted firm and non-firm capacities;

- c) the available firm and non-firm capacities;
- d) user-friendly instruments for calculating tariffs for a specific service (e.g. a tariff “calculator”) and for verifying on-line the level of available capacity;

TSOs shall publish daily up-dates of short-term capacity availability (day-ahead and week-ahead) based, inter alia, on prevailing conditions and nominations and regular long-term forecasts of available capacities on a quarterly and annual basis for up to 10 years for all main entry and interconnection points.

Available capacities in the medium term shall be published for a period of 18 months ahead and shall be updated at least every month or more frequently if new information becomes available.

The calculation of available capacities shall be based on network modelling and flow simulations taking account of all relevant operational parameters for an efficient and safe operation of the system. A methodology for calculating available capacities based on a standardised energy unit shall be proposed by GTE and agreed by the Forum no later than 1 January 2003.

Historical maximum and minimum capacity utilisation rates and annual average flows at the above points shall be published for the past three years no later than 1 January 2003 and a daily log of actual aggregate flows will be updated daily thereafter.

TSOs shall keep effective records of all capacity contracts and all other relevant information in relation to calculating and providing access to available capacities. If necessary, the relevant national authorities shall have access to such records in relation to complaints about refusal of access due to lack of capacity.

3. All network information shall always be disclosed in a meaningful, quantitatively clear and easily accessible way and on a non-discriminatory basis. As the general rule, information and transparency shall be provided via the Internet and shall not be charged for.

6. Recommendations on guidelines for good practice regarding tariff structure and derivation:

1. TSOs shall design tariff structures according to the following three key principles. Tariffs should be: (i) reflective of efficiently incurred costs; (ii) facilitate efficient gas trade and competition and (iii) promote efficient use of the network. The tariff structure should be reviewed on a regular basis to ensure that it continues to support these three principles, as the market develops.
2. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the gas network, TSOs should publish reasonably and sufficiently detailed information on tariff derivation and tariff structure, including at least:
 - Tariff methodology and derivation;
 - Tariff structure designed to promote trade and competition in gas supply;

- Definition of the cost base underlying tariff setting taking into account asset valuation and depreciation principles and benchmarking of efficiency and operational standards;
 - Functional allocation and capacity/commodity allocation principles;
 - Detailed tariff design (tariff elements) including charges for capacity overrun and their derivation;
 - Indexation of tariffs (if any), or principles for tariff variations;
 - Specific tariffs or rules applied to backhaul transportation or specific services if any;
 - Regulatory involvement in tariff setting.
3. TSOs should not adopt any charging principles and/or tariff structures that in any way would hamper or distort market liquidity and trade across borders of different TSO systems. TSOs should actively pursue convergence of tariff structures and charging principles including in relation to balancing (see section 7).

7. Recommendations on guidelines for good practice regarding balancing, imbalancing charges and settlement processes:

In order to ensure non-discrimination between related undertakings and third parties, avoid potential distortions to trade, and facilitate efficient use of the gas network, gas market liquidity and trade across borders of different TSO systems, TSOs should:

1. Design fair, non-discriminatory and transparent residual system balancing rules (e.g. in relation to issues such as tolerance levels, balancing period, balancing requirements in heat units etc.) that are based on objective criteria, reflecting genuine system needs and reasonably necessary on the basis of system and flexibility resources available to the TSO. Provide information to the relevant regulatory authorities and system users with regard to the system resources (including related assets, contracts, costs etc.) at the disposal of the TSO dedicated to system operations including residual balancing. Balancing rules and charges, which should be reviewed by the relevant authorities, should be broadly cost-reflective and avoid cross-subsidisation between system users;
2. Ensure that the same rules (including the same charges for flexibility services provided by the TSO) are applied to own commercial operations of vertically integrated companies as to third parties on a formal and verifiable basis. Tolerance levels shall be designed in a way which reflect daily effective temperature and the actual technical capabilities of the transmission system;
3. Ensure that balancing charges are non-discriminatory, broadly cost-neutral to the TSOs and published whilst providing appropriate incentives on network users to balance in-put and off-take of gas and not to endanger the system. Penalties collected by TSOs, over and above the actual efficiently incurred balancing costs, from system users being out of balance shall be redistributed back to the system users on a non-discriminatory basis at the end of each month;
4. Ensure compatibility of balancing regimes (tolerances, imbalance charges etc.) in order to facilitate gas trade across borders of different TSO systems. European TSOs shall endeavour to harmonise balancing regimes and streamline structures and levels of balancing charges in order to facilitate trade. Where it is justified that balancing

regimes (tolerances, imbalance charges, balancing periods etc.) remain different between interconnected networks, standardised agreements and procedures between TSOs should be put in place in order to facilitate gas trade. Such arrangements shall be published and notified to the relevant regulatory authority;

5. Design balancing regimes in a way, which would not hamper the development of competition in the provision of ex ante balancing services;
6. Facilitate pooling and trading of imbalance services between different system users in a non-discriminatory and cost-reflective manner. Trading of imbalances shall not require system users to combine their transportation contracts vis-à-vis the TSO;
7. Market participants shall be provided with sufficient, well-timed and reliable Internet-based information about their balancing status and imbalance charges to be updated on at least on a daily basis and in function of the balancing period applied, where such information can be provided at reasonable costs. Information on imbalance positions shall allow system users to take timely corrective actions.

8. Recommendations on guidelines for good practice regarding the role of market based mechanisms such as secondary capacity trading markets:

In order to ensure non-discrimination and promote liquidity in the gas market, TSOs should:

1. Allow and facilitate TPA capacity rights to be freely tradable in a secondary market without any undue obstacles. Develop standardised contracts and procedures to facilitate secondary trade of capacity. Where requested by network users, provide cost-reflective services (such as an electronic platform or bulletin board) to facilitate secondary capacity trading and associated transfer of capacity rights between network users;
2. Actively endeavour to discourage capacity hoarding and facilitate reutilisation of unused capacity. In case of prolonged and significant non-use of reserved capacity by a system user, TSOs shall, in consultation with the competent authorities, actively endeavour in their contractual relationships with system users including notably related undertakings to retrieve un-used capacity and make it available to the market. TSOs shall facilitate trading of unused capacity at least on a day-ahead and interruptible basis. The basis for a possible interruption must be clearly set out. Revenues from released interruptible capacity shall be paid to the TSO and ring-fenced for re-distribution to all system users.

DEFINITIONS

– draft proposal

“technical capacity”: the maximum capacity that the transmission, LNG or storage undertaking can offer to the system users, taking account of the system integrity and the operational requirements of the transmission network.

“firm capacity”: gas transmission, LNG or storage capacity contractually and unconditionally guaranteed by the transmission, LNG or storage undertaking.

“non-firm capacity”: gas transmission, LNG or storage capacity that can be interrupted by the transmission, LNG or storage undertakings according to the conditions stipulated in the access contract. The contract specifies the permitted duration, frequency and timing of the interruptions. It also specifies the previous notice required and possibly a fee related to the duration of the interruptions.

“interruptible capacity”: an extreme form non-firm capacity whose availability is not guaranteed in any way by the natural gas undertaking.

“available firm capacity”: the part of the technical capacity that is not allocated and is still available to the system users at that moment.

“primary market”: capacity traded directly by the TSO under regulated conditions.

“secondary market”: capacity traded otherwise than on the primary market.

“contractual congestion”: the level of firm capacity demand exceeds the technical capacity (all technical capacity is booked as firm but some capacity remains unused)

“physical congestion”: the level of firm capacity use that equals the technical capacity (all firm capacity is actually being used; there is no capacity hoarding).

“congestion management”: management of the capacity portfolio of the transmission undertaking with a view to optimal and maximum use of the technical capacity and the timely detection of future congestion and saturation points.

“capacity”: the flow, expressed in normal cubic meters per time unit, to which the system user is entitled in accordance with the provisions of the transmission contract.

“nomination”: the prior reporting by the system user to the transmission undertaking of the part of the allocated capacity that he wishes to use;

“renomination”: the reporting of a corrected nomination;

“nominated capacity”: the capacity that the system user has previously reported to the transmission undertaking as capacity that he wishes to use;

“balancing period”: the period within which the off-take of an amount of natural gas, expressed in units of energy, must be offset by every system user by means of the injection of the same amount of natural gas into the transmission network;

“system integrity”: any situation in respect of a transmission network or a transmission facility in which the pressure and the quality of the natural gas remain within the minimum and maximum limits laid down by the transmission undertaking, so that the transmission of natural gas is guaranteed from a technical standpoint;

“entry/exit allocation system” : system where capacity is booked separately at the entry and at the exit points;

“entry/exit tariff system”: tariff regime where injection and off-take are priced and invoiced separately, without prejudice of the rules related to the balance between injections and off-takes.