



Guidelines for Good Practice on Open Seasons
Draft report from ERGEG

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Summary

- **Introduction and background**
- **The draft Guidelines for Good Practice on Open Seasons (GGPOS)**
- **Preliminary results of the public consultation**
- **The way forward**

ERGEG's Gas Infrastructure Investment TF

- **Co-chaired by Ofgem and CRE**
- **Comprises 3 Work Streams:**
 - **Cross Border Tarification WS**
 - **Treatment of New Infrastructure WS**
 - **Open Season WS**
- **Open Season WS is co-chaired by E-Control and CRE**

Introduction

- **During the 11th Madrid Forum, the EC indicated that it might request ERGEG's advice on the role of open season procedures**
- **ERGEG declared its willingness to provide such advice**
- **Via its Open Season WS, ERGEG developed a set of draft Guidelines for Good Practice on Open Seasons (GGPOS), which were put to public consultation on 7 December 2006**

The draft GGPOS : background

- **Security of supply and competition require the provision of sufficient infrastructure**
- **However, before building new infrastructure, the first step is to make full use of existing infrastructure, through efficient CMPs**
- **But if long-term congestion exists, new investments must be undertaken**
- **Directive 2003/55/EC requires that TSOs ensure the long-term ability of the system to meet reasonable demand**
- **The draft guidelines :**
 - **Identify what an open season procedure is**
 - **How it should be conducted**

The draft GGPOS : role of open seasons

- Open seasons allow a SO to
 - assess how much capacity the market wants and under what terms
 - allocate capacity on a non-discriminatory basis
- If a SO does not spontaneously initiate an open season, the regulator could recommend that it initiates one
- A regulator would do this after observing a relevant number of access refusals and identifying long-term congestion
- The sponsor of an open season (i.e. the party that will conduct the open season and ultimately invest) will typically be a SO
- However, third parties should also be able to sponsor investment projects

The draft GGPOS : application

- The draft guidelines apply to:
 - transmission, distribution, LNG and storage
 - new infrastructure as well as extensions to existing infrastructure
- The guidelines are not legally binding
- Open seasons generally consist of a two-step process :
 - the proposal to shippers
 - and capacity allocation

The draft GGPOS : 1st step – proposal to shippers

- **Prior to the open season, the sponsor should consult with users to roughly assess demand**
- **The sponsor should also assess technical constraints**
- **Based on these assessments, the sponsor prepares a proposal, which he sends to the regulator**
- **If the regulator has any concerns, they should be resolved before the open season**
- **The sponsor then publishes his proposal (i.e. the « open season notice »)**
- **The open season notice should be well publicised, for instance it must be published in English**

The draft GGPOS : 1st step – the open season notice

- **The goal of the open season notice is to give bidders as much information as possible on the service that is being offered. In particular, it should describe:**
 - **The project**
 - **The services offered (both short and long-term)**
 - **The fee for these services**
 - **The deadline for submitting bids**
 - **The capacity allocation method**
- **The draft GGPOS contain a sample notice for a typical transmission project**
- **Sample notices for other types of infrastructure will be adapted in the final guidelines**

The draft GGPOS : 1st step – proposal to shippers

- **Based on the information in the notice, the bidders indicate how much capacity, and what type of capacity they would like – this demand is non-binding**
- **They can also tell the sponsor how the proposal could be improved to better fit their needs**
- **If demand turns out to be higher than expected, the sponsor should be able to propose a new project and initiate a new open season**
- **If there is not enough demand, the sponsor should still be able to go ahead with the project if he is ready to take on associated financial risks**

The draft GGPOS : 2nd step - capacity allocation

- **Based on the non-binding bids, the sponsor offers each bidder a certain amount of capacity**
- **The CAM should be transparent and non-discriminatory and published in the open season notice**
- **The CAM should take into account requests for both short-term and long-term capacity**
- **If satisfied with the sponsor's proposal, the bidder enters into a binding agreement with him**
- **If the sponsor asks for a guarantee, it should be reasonable**
- **If eventually the sponsor does not deliver capacity, bidders who have signed binding agreements should be compensated**

The draft GGPOS : coordination with adjacent system operators

- When making an open season, a SO should coordinate with the adjacent system operator in order to get compatible timing, CAMs, tariff structures and contract terms
- Among other things, coordination ensures that a shipper is not prevented from bidding due to a lack of upstream/downstream capacity
- Regulators should monitor SO coordination

The draft GGPOS : results of the open season and transparency

- **the main results of the open season should be published:**
 - **investment decision (capacity to be built, in-service date ...)**
 - **winning bidders and share of capacity**
 - **tariff and contract durations**
- **regulators should have access to terms of agreement upon request**
- **regulators have to evaluate whether the open season has produced satisfactory results**

The Public Consultation on the draft GGPOS

- **The draft GGPOS were put up for consultation on 7 December 2006**
- **Stakeholders were invited to comment until 19 January 2007**
- **ERGEG received 14 non-confidential responses and 2 confidential responses**
- **All non-confidential responses are available online at www.ergeg.org**

Preliminary results of the consultation : general assessment

- Almost all respondents welcome ERGEG's initiative
- The draft GGPOS are seen as a useful way to clarify the role and structure of processes that have in some instances produced unsatisfactory results
- Respondents insist on the SO's obligation to meet reasonable long-term demand
- They generally agree that open seasons are a good way to assess the market's needs and allocate capacity on a transparent and non-discriminatory basis
- 2 respondents were less supportive:
 - one respondent indicated that all TSOs will spontaneously invest and allocate capacity on a non-discriminatory basis
 - the other respondent thinks that open seasons are a good market test, but are less useful in terms of making investment decisions / allocating capacity

Preliminary results of the consultation : application

- Theoretically, open seasons could be applied to any type of infrastructure
- But in practice, most respondents noted that open seasons may not always be necessary, in particular for:
 - small investments
 - distribution investments, where there is no possibility of hoarding capacity
 - the exempt portion of Article 22 exempt facilities
- Moreover, some respondents suggested open seasons may not be necessary for:
 - situations where the SO's market analysis and market mechanisms provide sound investment signals
 - situations where national planning already takes place
- A few respondents also mentioned that the GGPOS should not be applied to LNG and storage projects

Preliminary results of the consultation : procedure

- Most respondents note that a good open season requires active and continuous regulatory involvement. However, a minority of respondents feel that too much regulatory involvement in open seasons may create delays / burdens
- The open season notice in the guidelines is perceived as a good starting point:
 - but some elements could be added /dropped
- Most respondents think bidders should not be asked to state their source of gas and that their identity / share of allocated capacity should not be published after the open season (commercially sensitive information)
- If demand is lower than expected, an economic test must be in place before the open season starts to decide whether the project goes ahead
- If demand is higher than expected and there are no technical constraints, the sponsor should amend its proposal

Preliminary results of the consultation : procedure

- **The regulator must ensure that the CAM published in the notice is transparent and non-discriminatory**
- **Pro-rata CAMs can produce unsatisfactory results and should be carefully designed**
- **Short-term capacity is desirable in terms of competition but may increase costs / deter investment**
- **There needs to be clear rules regarding the portion of capacity to be allocated on a short-term basis**
- **By the time bidders are asked to sign binding agreements the tariff or at least the underlying methodology should be known**

Preliminary results of the consultation : coordination

- **Almost all respondents say that SO coordination is absolutely crucial**
- **Coordination should start well ahead of the open season**
- **Coordination could take the form of parallel and symmetrical open seasons**
- **Regulators should be actively involved. If SO coordination fails, they might move in as the default coordinator**
- **However, two respondents expressed some reservations about the necessary degree of coordination and regulatory involvement**

The way forward

- **ERGEG will prepare a summary of the responses received, including its views**
- **This document and a set of revised guidelines will be published after approval by ERGEG's GA on 4 April 2007**