



Public Consultation on the Gas Transparency Monitoring Reports

Evaluation of Comments

Ref: E08-GMM-01-03

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1 Executive summary

- 1.1. The purpose of this paper is to summarise the views ERGEG received in response to the Gas Transparency Monitoring Public Consultation. Two reports were the subject of this public consultation, namely "Compliance with Transparency Requirements of Gas Regulation 1775/2005/EC - An ERGEG Monitoring Report" [E07-TRA-02-03] and "Transparency Requirements – An ERGEG Additional Monitoring Report" [E07-TRA-02-03b].
- 1.2. The consultation period lasted from 16 November 2007 until 23 January 2008 (originally: 11 January 2008, extension granted due to technical problems). A total of ten responses were received (9 non-confidential responses, one confidential response and one confidential annex). ERGEG is pleased with the level of stakeholder engagement and grateful for the number and quality of responses that have been submitted regarding this consultation.
- 1.3. Views received from traders and shippers indicate that there is a clear need to enforce existing transparency requirements as well as to develop additional obligations. Furthermore, respondents clearly stress that there is need for more harmonisation of the way in which data is published, in particular with regard to both format and language, to ensure that all information is available both in English and the national language. This includes the harmonisation of information published on cross border flows, market integration and harmonisation of procedures at interconnection points, e.g. via single booking of capacity mechanisms, whereby entry and exit capacities are booked jointly.
- 1.4. Some respondents stressed that confidentiality, particularly in less mature markets, also needed to be protected. New regulations should be introduced only if necessary and they should not impose undue costs on operators. These are all valid concerns which ERGEG believes can be addressed while simultaneously increasing transparency.
- 1.5. The views expressed by respondents corroborate many of the recommendations which ERGEG has made to the European Commission as part of its input to the 3rd legislative package.¹ Respondents also made some additional recommendations which are discussed

¹ In particular: "Transparency requirement for electricity and gas - a coordinated approach (ref. C07-SER-13-06-6-PD), available online at:
http://www.ergreg.org/portal/page/portal/ERGEG_HOME/ERGEG_DOCS/ERGEG_DOCUMENTS_NEW/Energy%20documents

later in this paper. Although ERGEG has worked on transparency extensively during this past year, further work may be needed on the subject, especially with regard to LNG and storage.

- 1.6. Based on the comments received, ERGEG would like to re-iterate its recommendation for the removal of the '3-minus shipper' rule (as envisaged by the third legislative package).
- 1.7. Based on the outcome of the public consultation process and this evaluation of responses report, ERGEG intends to publish a conclusions paper on transparency later in 2008 ("Gas Transparency Monitoring – An ERGEG Conclusions Paper").

2 Introduction

Purpose of the Paper

- 2.1. In 2007 ERGEG published two monitoring reports analysing TSO compliance with the transparency requirements of Regulation 1775/2005/EC: "Compliance with Transparency Requirements of Gas Regulation 1775/2005/EC - An ERGEG Monitoring Report" [E07-TRA-02-03] and "Transparency Requirements – An ERGEG Additional Monitoring Report" [E07-TRA-02-03b].
- 2.2. On 16 November 2007, ERGEG launched a consultation on the monitoring reports which lasted until 23 January 2008. The purpose of this paper is to present and evaluate the responses received from stakeholders.²
- 2.3. Appropriate consideration has been given to all responses. All non-confidential responses are available online, at:
http://www.ergeg.org/portal/page/portal/ERGEG_HOME/ERGEG_PC/ARCHIVE1/GAS/Gas%20transparency%20monitoring

Summary of the ERGEG Consultation Paper and Consultation Process

- 2.4. In the monitoring reports that gave way to the consultation, ERGEG stated that current transparency requirements need to be implemented and extended to facilitate the development of an efficient and effective market. ERGEG mentioned that additional transparency was needed in transmission but also at LNG and storage facilities.

² In accordance with ERGEG's public consultation procedure (E07-EP-16-03).

- 2.5. The monitoring also covered monitoring potential additional transparency requirements, ie those aspects that are not covered at present by the Regulation 1775/2005/EC, but included in the EC's draft explanatory notes on transparency. Examples are the powers and sanction mechanisms of NRAs, regulatory requirements going beyond transparency requirements as such.
- 2.6. ERGEG's findings were presented at the XIIth and XIIIth Madrid Fora, in February and October 2007. Following the presentation of these findings, ERGEG decided to launch a public consultation.

Responses received

- 2.7. As shown in table 1, a total of 9 non-confidential and 2 confidential responses were received.

Table 1: Overview: Responses received

Respondent		Country
CENTRICA	Centrica Plc	UK
ENI	Eni S.p.A.	Italy
EUROGAS	Eurogas	Belgium
GTE	GTE	Belgium
GTS	Gas Transport Services B.V.	Netherlands
OGG	OMV Gas GmbH	Austria
PGNiG	Polskie Górnictwo Naftowe i Gazownictwo S.A.	Poland
TAG	TAG GmbH	Italy
EFET	EFET	UK
Confidential Response		
Confidential Annex		

Source: ERGEG (2008)

- 2.8. During the consultation, stakeholders mainly commented on the conclusions of ERGEG's two reports. However a few respondents also provided ERGEG with some missing data, or corrections regarding incorrect data. These new inputs are reflected in the appendix to this paper. In accordance with ERGEG's public consultation guidelines, no new report will be published.

Recent developments

2.9. The publication of this evaluation paper has to be seen in a wider context, most notably:

- The On 27th September 2007 the European Commission published its so called “3^d legislative package”;
- § This proposal takes up many of the proposals that ERGEG has made during past years. ERGEG subsequently sent the EC its official position on the 3rd package;
- § In the meantime ERGEG has been working on a regional level, through its Gas Regional Initiatives to try and deliver practical results;
- § Much of ERGEG’s work at regional and EU level is centred around measuring compliance by TSOs with requirements in the transparency regulation, resolving cases of non-compliance and identifying additional needs that the market may have and which currently are not addressed in Community legislation.

2.10. For clarification purposes it should be noted that the scope of transparency covered in this report relates to physical data to be published by TSOs according to Regulation (EC) 1775/2005. It should be pointed out that joint work is ongoing between CESR (Committee of European Securities Regulators) and ERGEG with the focus on transparency of trading in energy markets.

3 Consideration of Responses

Recap of ERGEG Consultation Paper

3.1. ERGEG’s findings from its two monitoring reports to define the general lead questions for the consultation process. Three thematic areas had previously been identified in these documents:

- § General questions:
 - § Sufficiency of existing transparency requirements
 - § Prescriptiveness of existing transparency requirements
 - § Additional transparency requirements, if needed
- § Users:
 - § Matching of information in monitoring reports with own observations

- § Areas where further improvement is needed
- § Availability of information on historic capacities, probability of interruption, examples of TSO systems where this information is not available
- § Need for further developments both in terms of transparency requirements and market structures/instruments
- § TSOs:
 - § Explanations in cases where insufficient information had been submitted
 - § Areas where the implementation of transparency requirements is impossible

3.2. The analysis of responses follows this structure.

Respondents' views - General issues

Nature of transparency and the transparency consultation in general

- 3.3. All respondents welcome ERGEG's initiative to monitor the compliance level of transparency.
- 3.4. Respondents feel that a complete and homogeneous level of transparency is a key prerequisite for the creation of a European single market for energy. A lack of transparency creates barriers to entry and impacts negatively on the development of competition. The importance of transparency warrants careful and continuous monitoring on the part of regulatory authorities.

Sufficiency of existing transparency requirements

- 3.5. Although a few respondents suggested existing transparency requirements were sufficient, most of the respondents, and in particular the shippers and traders, stressed that they are not sufficient. In addition shippers and traders point out with some concern that existing requirements are not fully implemented.
- 3.6. How data is accessed is as important as what data is available. Ideally, data should be available on the internet, in English, in user-friendly formats such as *.xls or *.csv. Therefore, artificial barriers to information, such as unnecessary fees, logins, or obligations to sign a contract prior to accessing information, should be eliminated.
- 3.7. The way information is presented on different systems also needs to be harmonised. Quantities have to match, and so do units, as well as the kinds of data that are published on each system.

Prescriptiveness of existing transparency requirements

- 3.8. Respondents did, in general, not feel that the existing transparency requirements are too prescriptive. Instead, they felt that a sufficient level of detail is indeed required to ensure that shippers have the right information in a user friendly format.

Additional transparency requirements

- 3.9. A number of users, in particular traders and shippers, re-iterated their suggestion to abolish or at least severely restrict the application of the so-called “3-minus shipper rule”. Respondents mentioned the importance of the harmonised approach provided in Ofgem’s guidelines on the 3-minus rule and evoked some of its main features. Under these current guidelines, TSOs have to ask NRAs for permission not to publish information. When confidentiality is granted following such a request, TSOs must publish NRA-approved aggregate figures in aggregate and anonymised format. TSOs are also requested not to revert to confidentiality if the number of users at a given point drops back down under 3 users after having more than 3 users.

Respondents’ views-Users

Matching of information in monitoring reports with own observations, areas for further improvement, further requirements

- 3.10. Some users acknowledge the progress made by TSOs in terms of making more information publicly available and complying with the requirements outlined in Regulation 1775/2005/EC. However at the same time, other users felt that greater implementation of Regulation 1775/2005/EC is needed to ensure that the information provided is indeed fit for purpose.

Areas for further improvement

- 3.11. Users feel that a greater degree of standardisation of information is needed, especially with regard to how the information is made publicly available.
- 3.12. Practical examples given at this point by shippers include: Matching flow data between interconnection points (eg between two member states) and the publication of non-user specific information including capacity and flow information, i.e., information that is believed to be most vital for new entrants to enter the market.

Availability of information for historic capacities, probability of interruption

- 3.13. Most respondents stated that their own experience was in line with the data that TSOs provided for ERGEG’s two monitoring reports.

Further transparency requirements

- 3.14. Respondents gave concrete examples of further transparency requirements and additional data items, such as in the following areas where, according to the respondents' view, further transparency is required:
- § Removal of the '3-minus shipper' rule (as envisaged by the third legislative package),
 - § Greater harmonisation of the way in which data is published, primarily with regard to both format and language, in particular to ensure that all information is also available in English in addition to the national language; and
 - § Publication of all non-confidential data openly, on the internet, in a usable format and free at the point of use.
- 3.15. Transmission users spoke about the type of information that is lacking on TSO websites:
- § Shippers need detailed and accurate maps of transmission systems clearly showing all entry and exit points in a consistent way;
 - § Shippers also need precise information on available capacity levels; and
 - § They need better access to daily flows, interruption probabilities and real-time balancing information.
- 3.16. Respondents suggested that communication platforms where information about different systems and products on such systems is centralised can facilitate trade.
- 3.17. One respondent suggested the expansion of existing transparency requirements to natural gas conversion facilities.

Respondents' view - TSOs

Nature of transparency and the transparency consultation in general

- 3.18. TSOs, either themselves or via their membership organisation, recognise the importance of transparency for the development of the European internal gas market. They also consider ERGEG's monitoring to be a valuable activity that helps to assess overall transparency compliance levels as written in Regulation 1775/2005/EC, which helps to promote further market development.

Provision of additional data/explanation by TSOs in cases where insufficient information had been submitted

- 3.19. More information was submitted by TSOs where data was missing or clarifications were needed. This has helped ERGEG resolve some ambiguities on the answers. However, more in depth research would be required to fully assess cases where TSOs responded “not known”, “not available” and “not applicable”.

Areas where the implementation of transparency requirements is impossible

- 3.20. TSOs, either themselves or via their membership organisation, did not give any concrete examples of areas where the implementation of transparency requirements is categorically impossible.
- 3.21. However, respondents felt that especially in emerging markets, there might be a need to ensure confidentiality to some extent.

ERGEG's view

- 3.22. ERGEG is encouraged by the number of responses received to this consultation. ERGEG considers the responses to be supportive of ensuring transparency. ERGEG would like to thank all stakeholders who responded to the consultation.
- 3.23. ERGEG agrees that existing legislative requirements must be implemented and that additional requirements need to be introduced. In particular, ERGEG believes the 3 minus rule should be abolished. In fact, this suggestion already appears in ERGEG's input to the 3rd package.
- 3.24. As some respondents have pointed out, cost benefit analysis must always be conducted when introducing new regulations. ERGEG had this in mind when preparing its recommendations, which involve very limited costs and yet promise to bring many benefits to the market. .
- 3.25. ERGEG welcomes the respondents' (and most notably the users') view that greater powers and sanctions power mechanisms should be given to NRAs to ensure compliance with the transparency requirements outlined in Regulation 1775/2005/EC. This is in line with ERGEG's own findings from the second monitoring report.
- 3.26. In principle, ERGEG supports the requests made by shippers and traders in this consultation. More information on daily flows, available capacity, real time balancing, interruption probabilities and system maps needs to be available. Furthermore information has to be available on the internet, in English, in a user friendly format, at a reasonable cost and artificial barriers to information, such as logins or access contracts, must be eliminated. These are essentially specific instances of the kind of data where ERGEG has been seeking transparency.

- 3.27. As ERGEG continues to work on transparency, it may be useful to make a minimum set of transparency requirements (as outlined in the explanatory notes to Regulation 1775/2005/EC on transparency) legally binding,

4 Preliminary conclusions and recommendations

- 4.1. ERGEG has considered all the submissions in response to this consultation. Taking all comments on board, ERGEG has arrived at the following preliminary conclusions and recommendations: Transparency still remains most vital to energy market liberalisation. Despite the progress made in this area, further work is required to monitor the compliance level with existing transparency requirements and identify new transparency requirements where needed: Firstly, the 'correct', comprehensive and complete implementation of Regulation 1775/2005/EC needs to be ensured. Secondly, where required, additional transparency requirements need to be defined and adopted to allow fair and non-discriminatory access to all types of natural gas infrastructure, not just transmission systems. Thirdly, there has to be a clear legislative backing for any additional transparency requirements. Fourthly, NRAs need to be given clear powers to effectively enforce the implementation of transparency requirements as outlined in Regulation 1775/2005/EC and potentially elsewhere in future.
- 4.2. With regard to information that is already available, the consultation has shown that there is need for more harmonisation of the way in which data is published, primarily with regard to both format and language, in particular to ensure that all information is also available in English in addition to the national language. This includes the harmonisation of information published on cross border flows, market integration and harmonisation of procedures at interconnection points, e.g. via single booking of capacity mechanisms, whereby entry and exit capacities are booked jointly.
- 4.3. These conclusions are in line with the conclusions drawn in ERGEG's two transparency monitoring reports. The responses from this consultation therefore do not contradict ERGEG's own findings. On the contrary, in many cases, ERGEG's view and respondents' views do point in the same direction.
- 4.4. ERGEG would like re-iterate its recommendation for the removal of the '3-minus shipper' rule (as envisaged by the third legislative package).
- 4.5. Based on the outcome of this consultation, ERGEG would also like to suggest that the following issues need to be addressed within the conclusions paper: Making timely and adequate information available regarding the precise level of un-booked capacity, the

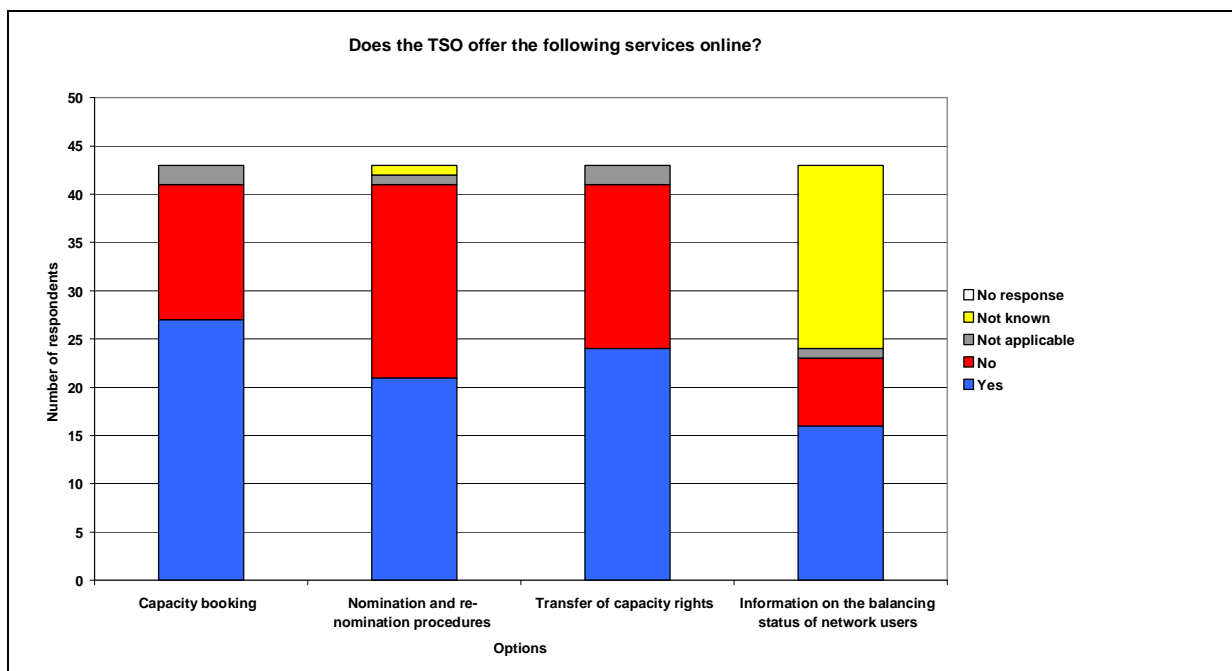
likelihood of interruption (in case of interruptible transportation capacity), the publication of flow information (physical, contractual, nominated) on a daily basis (shown by balancing period if this is shorter) and the release of information that can be used for real-time balancing. This also includes the creation of secondary market capacity trading platforms.

- 4.6. ERGEG will publish this evaluation of responses paper and use it as the basis for the preparation of the conclusions paper. The conclusions paper will be prepared in due course and will be then published on the ERGEG web site.

5 Appendix

This appendix contains updated charts for those graphs of the first transparency report where stakeholders explicitly asked for a correction of factual information.

Figure 1: Question 3.3: Does the TSO offer the following services online?



Source: ERGEG Transparency Monitoring Survey 2007, correction 2008

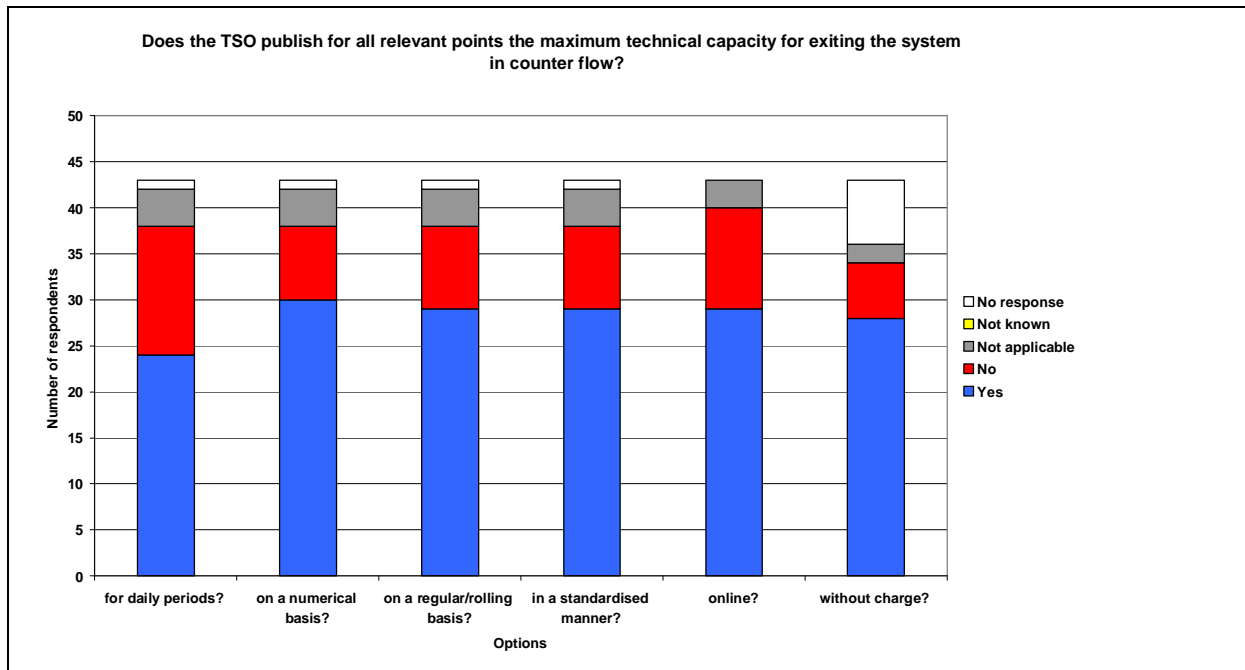
Comment

by

GTS:

GTS does provide information, but network users regard this information as insufficient.

Figure 2: Question 8.3: Does the TSO publish for all relevant points the maximum technical capacity for existing the system in counter flow?



Source: ERGEG Transparency Monitoring Survey 2007, correction 2008

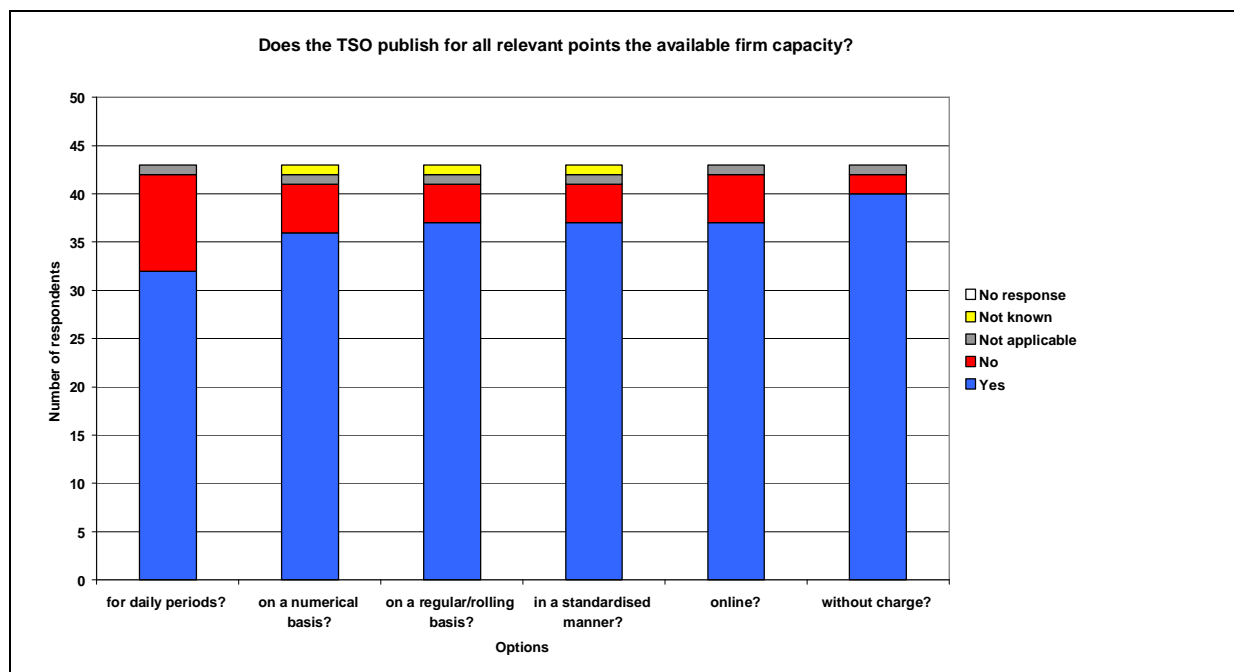
Comment

by

GTS:

GTS provides this information without charge.

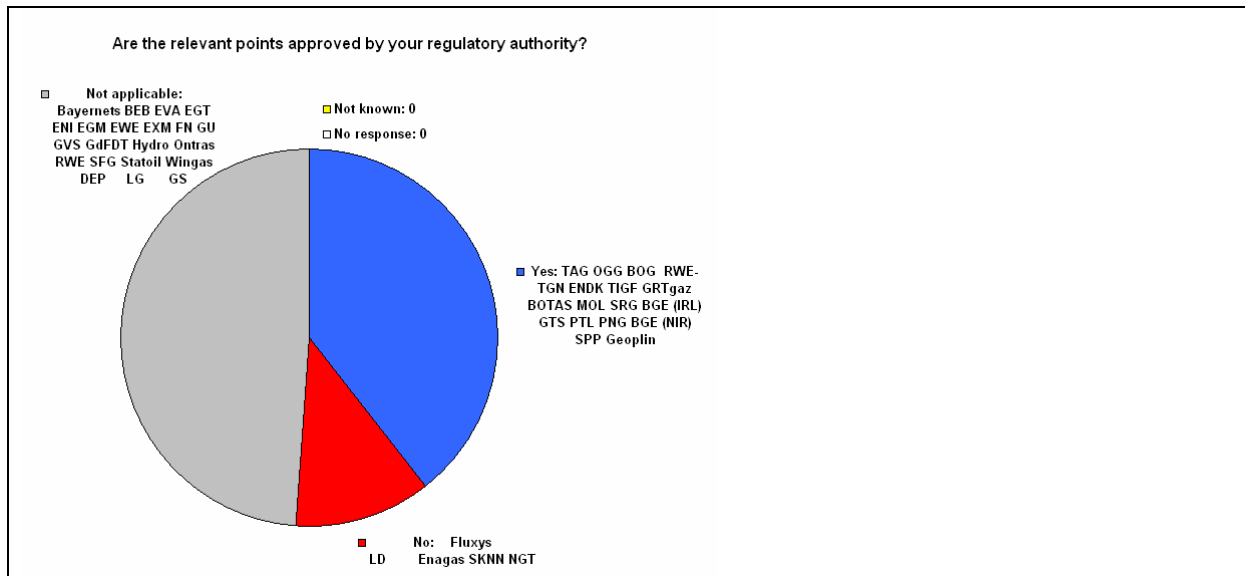
Figure 3: Question 8.6: Does the TSO publish for all relevant points the available firm capacity?



Source: ERGEG Transparency Monitoring Survey 2007, correction 2008

Comment by GTS:
GTS provides this information online on a regular/rolling basis.

Figure 4: Question 8.14: Are the relevant points approved by your regulatory authority?



Source: EREG Transparency Monitoring Survey 2007, correction 2008

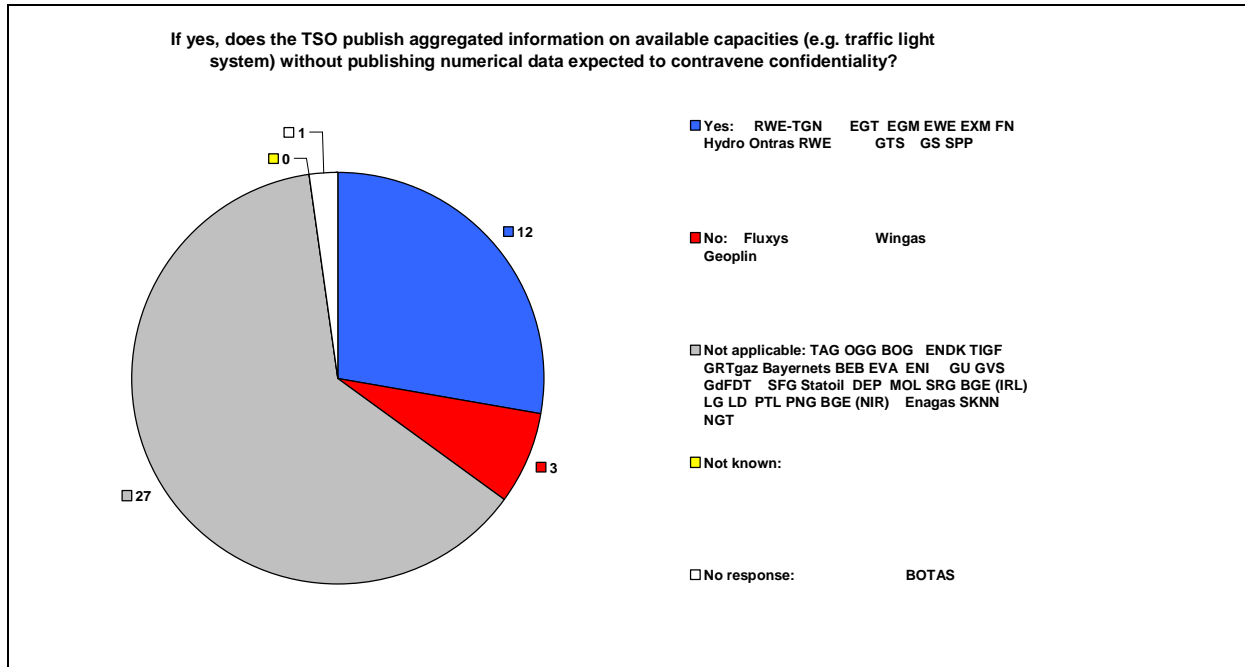
Comment

by

GTS:

The answer should be changed to yes.

Figure 5: Question 9.1, part 1: If yes, does the TSO publish aggregated information on available capacities (e.g. traffic light system) without publishing numerical data expected to contravene confidentiality?



Source: ERGEG Transparency Monitoring Survey 2007, correction 2008

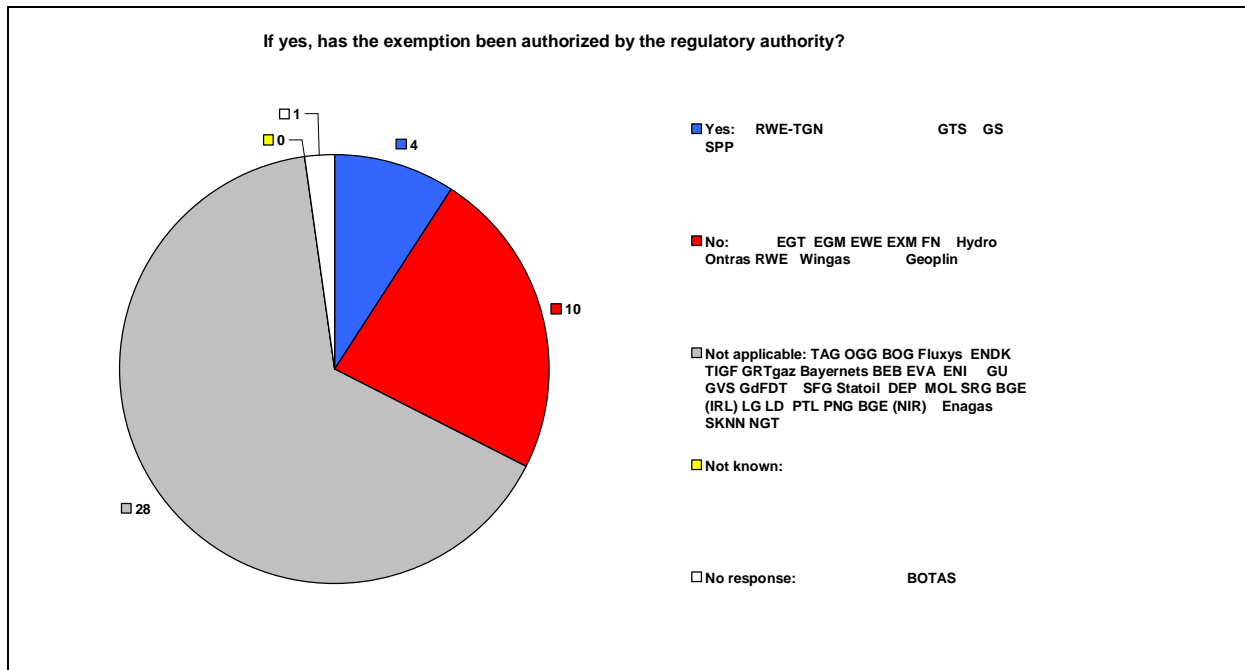
Comment

by

GTS:

GTS has put forward that they recently have a traffic light system.

Figure 6: Question 9.1, part 2: If yes, has the exemption been authorized by the regulatory authority?



Source: ERGEG Transparency Monitoring Survey 2007, correction 2008

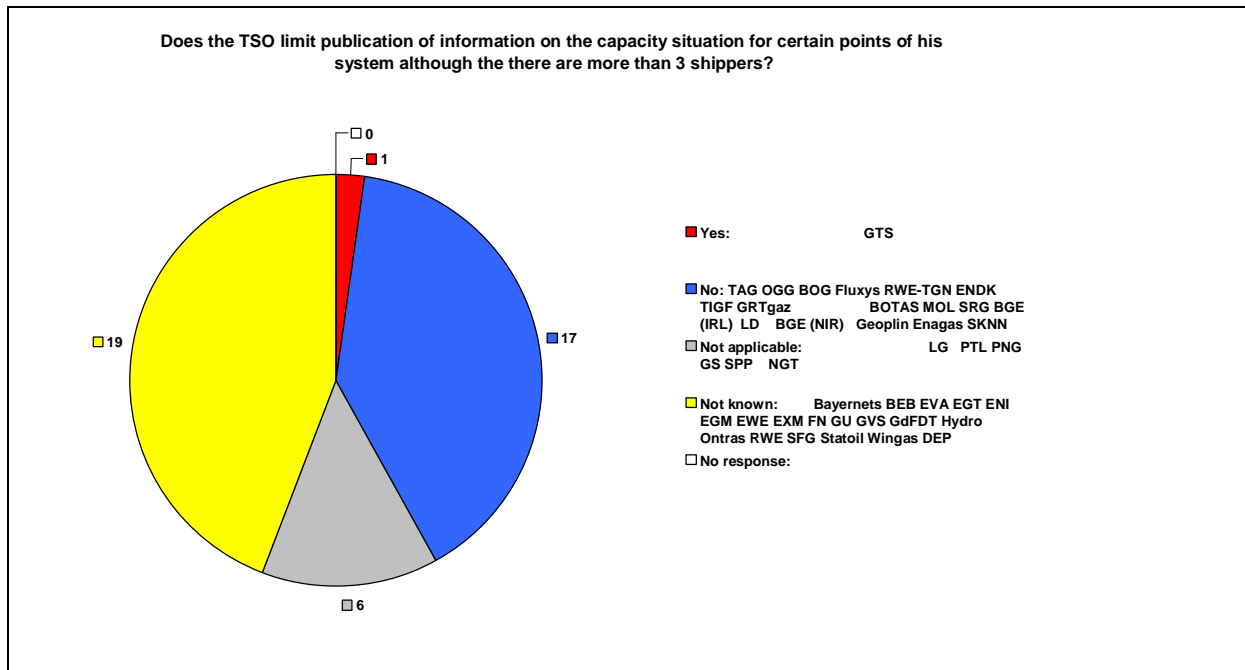
Comment

by

GTS:

Answer should be "yes, informal". A formal decision has not yet been taken

Figure 7: Question 9.2: Does the TSO limit publication of information on the capacity situation for certain points of his system although there are more than 3 shippers?



Source: ERGEG Transparency Monitoring Survey 2007, correction 2008

Comment by GTS:
Answer should be "yes, for storage and domestic points".