

SWISS FEDERAL COUNCIL PUBLIC CONSULTATION ON THE GAS SUPPLY LAW



EFET response – 10 February 2020

General comments

The European Federation of Energy Traders (EFET¹) welcomes the opportunity to provide our comments to the Swiss Federal Council consultation on the gas supply law (LApGas). Our mission statement reads: *We promote competition, transparency and open access in the European energy sector. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy.*

Therefore, EFET calls for the full liberalization of the Swiss gas market that will enable all customers to freely choose their supplier and will ensure the establishment of a level playing field among all market participants at all market levels (B2B and B2C) in the Swiss gas market.

The gas sector in Europe has undergone profound changes in the last 20 years. Vertically integrated undertakings have been unbundled and replaced by competitive suppliers operating in liquid wholesale markets, at least in the principal markets that account for more than 80% of European gas consumption, and separate gas transmission system operators (TSOs) respectively.

EFET provided ongoing feedback to EU-wide and national authorities on barriers traders and originators were still facing, whether through poor implementation of the legislation or because of issues that had not yet been addressed. Unbundling, access to capacity and flexibility, and unnecessarily onerous terms and tariffs were and, in few countries still are, the key topics of the day, to enable competitive supplies to be brought to eligible consumers.

More recently, we have engaged in the development and implementation of EU legislation and Network Codes on capacity allocation and congestion management, tariff methodologies, balancing, and security of supply, including LNG and storage. We achieve this by interacting with national and regional task forces to ensure that local conditions can be considered while forming European rules, and to help promote common interpretation and implementation across different regions, bringing experience from more mature markets into those which are still developing, such as the Swiss gas market.

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org

The application of European Network Codes shall be the first solution

We agree with IEA and the Swiss Federal Council that Switzerland should adopt the EU Codes and an independent NRA (EnCom) that oversees the gas and power markets¹ with enforcement powers.

We believe that the Market Area Manager (MAM) or TSO should observe the Regulation (EU) No 312/2014 on Gas Balancing ([BAL NC](#)). The BAL NC, establishing a market-based balancing framework, has been instrumental in creating greater price transparency.

We agree on having one single balancing area while we argue that the MAM or TSO should carry out any residual balancing of the transmission networks that might be necessary on the Virtual Trading Point (VTP). In doing so, the TSOs should follow the merit order. The merit order is constructed so that TSOs will procure gas taking account of both economical and operational considerations, using products that can be delivered from the widest range of sources. The MAM or TSO should aim to maximise the amount of their gas balancing needs through the purchase and sale of short term standardised products on the short term wholesale gas market².

We welcome the planned introduction of an end-of-day cash-out price. However, we cannot understand the need for within-day obligations. Even large countries such as France and Italy get along very well with a pure daily balance.

One obvious advantage of a VTP is to enable pooling of liquidity that would otherwise develop at multiple entry or exit points. By having a single point where gas can be traded, activity will be focused there. In this way an efficient market can be established where buyers can seek the cheapest source of gas from those able to offer gas at the hub, and sellers can seek the parties who place the highest value on the gas available. Transaction costs are reduced as less time is spent identifying who is able to buy or sell at a particular location out of a large potential range of locations.

On tariffs, we believe that the Network Code on Tariffs ([TAR NC](#)) has also provided opportunities to improve gas tariff methodologies and increased transparency and comparability among European countries. We suggest EnCom to draw lessons from its implementation.

We argue that the MAM/TSO's role has a few market design flaws as it is proposed in the consultation. Unbundling principles shall be strictly applied. If so, the mixed composition made up of TSOs, shippers, industry, consumers and associations might not be ideal.

The first solution should consist in entering into dialogue with the relevant pipeline operators, and make sure they comply with unbundling principles and the European Network Codes on the Capacity Allocation Mechanisms ([CAM NC](#)) and on the Congestion Management Procedures ([CMP Guidelines](#)). We would prefer that the Swiss capacities are bundled with foreign capacities and therefore VTP-to-VTP transports are auctioned on the same booking platform. If possible, capacities should only be allocated as firm and interruptible products.

¹ https://www.gebaeudetechnik-news.ch/wp-content/uploads/2018/10/energy_policies_of_iea_2018.pdf

² https://efet.org/Files/Documents/Gas%20Market/Gas%20Hub%20Development/EFET-Guide_Hub-Features_Final.pdf

Conditional capacities should be avoided as far as possible. The fact that capacities should only be allocated by one entity instead of 16 TSOs, as is the case in Germany, for example, is something we consider to be beneficial.

A first level dialogue should aim to increase the level of transparency regarding the availability and tariffs applied to the capacity. It would be beneficial to verify, in cooperation with the Swiss regulator, the absence of anti-competitive practices which prevent the efficient use of available capacity.

With respect to the Transitgas Pipeline, while we understand that an interim regime may be necessary, postponing the full inclusion of the pipeline in the Swiss entry/exit zone to 2025, we regard an increased level of transparency on the tariff setting rules as paramount.

To this extent we recommend asking the operator of the Transitgas Pipeline to publish all data and value on its asset basis as required by the TAR NC. In addition, while a regime of negotiated access remains in place, the Law could ask the operator to publish “mock-tariffs” to be used as indicative reference to be calculated following a standard cost+ allowed revenues setting methodology. This would give the market some visibility on the level of tariffs to be expected should the Transitgas Pipeline be moved under a fully regulated third party access regime.

Once the transition period has ended, in order to allow competition to produce the maximum benefits for the market, the following requirements should be met:

- fees should be set in such a way that transit is not penalized compared to domestic transportation and
- transmission capacities should be made available to both existing shippers and newcomers under the same conditions. In this regard, the annulment of existing contracts provided for by art. 41 paragraph 5 of the draft LApGas seems to be a proper measure to ensure the establishment of a level-playing field among all operators in the future Swiss gas market.