



Att: Mr Michał Kurtyka, Undersecretary of State, Ministry of Energy

Cc: Mr Maciej Bando, Urząd Regulacji Energetyki  
Mr Jacek Loret, Urząd Regulacji Energetyki  
Ms Małgorzata Kozak, Urząd Regulacji Energetyki  
Mr Tomasz Stępień, Gaz-System  
Mr Alberto Pototschnig, ACER  
Mr Dennis Hesselting, ACER  
Mr Maciej Ciszewski, European Commission  
Mr Stefan Moser, European Commission

2 July 2018

## **Subject: Accessibility of storage capacity in Poland**

Dear Mr Kurtyka,

The European Federation of Energy Traders (EFET)<sup>1</sup> has been following the changes on the Polish gas market closely over the past years. Not only have we repeatedly<sup>2</sup> opposed the changes made to the Act on Reserve of crude oil, refinery products and natural gas, we also have concerns about the general functioning of the Polish storage system and how it is negatively impacting the development of the market.

To begin with, there is one entity holding the SSO license in Poland, Gas Storage Poland (GSP). This entity remains part of the former incumbent's capital group (GK PGNiG) which retains a dominant position in the Polish gas supply market. Because of its monopoly position and ownership structure GSP should be subject to strict oversight from the Polish NRA, URE, to avoid any possibility that its monopoly position is abused or that its ownership structure provides for instances of cross-subsidy. Nonetheless, it is our understanding that the Polish SSO appears to hold no obligation to submit their Storage Service Rules for the Regulator's approval. Polish law grants the NRA with monitoring rights (Art 23.2 subpoint 20) of the Energy Act<sup>3</sup>) over the storage system operators, but these are not perceived as equal to the regulatory powers it has over the power and gas TSOs.

The issue of the way the storage facilities are managed has come to EFET's attention this year, since the Storage Service Rules have been changed twice already in 2018. The changes were discussed and implemented during the ongoing storage capacity allocation procedures, apparently following the instructions given by the NRA. However, to our knowledge, no specific instructions were given to force the SSO to

<sup>1</sup> The European Federation of Energy Traders (EFET) promotes 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 a competitive economy. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information: [www.efet.org](http://www.efet.org).

<sup>2</sup> <http://efet.org/Files/Documents/Downloads/EFET-statement-on-Polish-storage-obligations.pdf>

<sup>3</sup> <https://www.ure.gov.pl/download/1/9154/PrawoenergetycznedoBIP-wersjana25-05-2018.pdf>

change the service rules during the ongoing process. The difficulty is that this kind of behaviour gives no comfort to potential storage users that the conditions they have agreed upon will not be changed at a relatively short notice, exposing them to potential risks of non-compliance and/or material losses. While we recognize that no such threat may necessarily materialize, and we acknowledge the existence of GSP's Programme for Ensuring Non-discriminatory Treatment of Storage Facility Users, the legal departments of most shippers would find the potential risk intolerable. This is therefore likely to deter parties from entering the market.

Furthermore, to draw the bigger picture of how we perceive the changes in accessibility of the Polish storage facilities, we would like to highlight the changes introduced to the 2018 tariffs. Although approved by the URE, the new tariff rules modify instances, in which the 40-day extraction period (corresponding to the abovementioned storage obligations) is guaranteed for different storage products (see points 3.4.1, 3.4.2, 3.4.3 of the Gas Storage Services Tariff<sup>4</sup> 1/2018 for reference). As a result, the costs for maintaining strategic gas reserves in Polish storage facilities will grow significantly, since the freedom to choose flexible products eligible under the storage obligations gets severely limited. We also regretfully note that these costs need to be accounted for twice by every shipper wishing to be active in Poland, due to non-overlapping periods of annual storage products on offer (April – April) and strategic gas reserves (October – October).

Should our understanding be correct, we would urge the Ministry of Energy to revise the oversight powers of the Polish NRA over the SSO license holder, to reinforce the non-discriminatory access to equitably priced storage capacities in all instances. Taking this opportunity, we would once again like to highlight that the existing storage obligations altogether act to the detriment of the Polish gas market and their associated costs actively discourage any physical gas trading activities in the country. We hope that our concerns will be taken seriously and promptly addressed and remain available for further discussions at your convenience.

Yours sincerely,

A handwritten signature in black ink, consisting of a series of fluid, overlapping strokes that form a stylized, somewhat abstract shape.

Jan van Aken  
EFET Secretary General

<sup>4</sup> [https://ipi.gasstoragepoland.pl/wp-content/uploads/2018/04/Full-version-of-Gas-Storage-Services-Tariff-No-1\\_2018.pdf](https://ipi.gasstoragepoland.pl/wp-content/uploads/2018/04/Full-version-of-Gas-Storage-Services-Tariff-No-1_2018.pdf)