



TO: Mr. Michal Kurtyka
Undersecretary of State,
Polish Ministry of Energy

Klaus-Dieter Borchardt
Director, Internal Energy Market
DG Energy

Mr. Maciej Bando
President of Energy Regulatory Office

Alberto Pototschnig
Director of ACER

Mr. Tomasz Stepień
President of the Board
Gaz-System

Dear Sirs

The proposals in the Act on Reserve of *crude oil, refinery products and natural gas* with respect to the storage requirements for gas importers were amended last year in such a way as to have significant and major negative impacts for market participants involved in both the trading and importation of natural gas into Poland. Indeed, for some, the proposals may pose an existential threat to their continuing involvement in the market. In the worst case scenario, **the Polish natural gas market will offset all the progress made since 2012** - when the number of market participants started to increase – and reinforce the dominance of the national incumbent. Polish consumers will suffer from increasing prices and less security of supply. Additionally, the impact on the competitiveness of Polish industry should not be underestimated.

EFET* has long argued that Polish storage obligations are inefficient and counterproductive. Moreover, they are possibly the most costly in Europe, as well as being operationally very complex, thus making compliance difficult to demonstrate. As such, they represent a barrier to the development of a secure, liquid and competitive market, ultimately reducing its resilience to emergency situations. EFET lobbied against the amendment and has sought to engage with Polish authorities since in order to clarify its understand of how the storage obligations will be applied and how their impact can be mitigated. However, based on our current level of understanding **mitigation of costs and/or management of the operational burden is practically impossible.**

In addition, we note that for some shippers the amendment represents an unacceptable withdrawal of an acquired legal right that would have normally lasted for some years. **This has caused those market players being locked into future costs linked to business decisions that were taken under a different legal and regulatory framework.**

Despite already being well into the **relevant period which defines the storage obligations for gas year 2017/18, there are still a number of open questions on the table**, in particular with reference to the possibility of using (much cheaper) storage outside Poland to be compliant¹. As a consequence importers are unable to take a sound business decision on whether or not to participate in the yearly capacity auctions scheduled for March 6th at the relevant Interconnection Points (IPs) on the Polish border. Booking could mean being left with sunk costs linked to unusable capacity. Alternatively, not booking capacity could result in having to buy more expensive capacity in the June quarterly auctions; possibly being unable to compete; anticipating a market exit in

¹ Contract storage in Poland to be compliant would put any importer out of the money as storage costs in Poland are currently much higher than equivalent services elsewhere in the region.

*The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 28 European countries. For more information, visit our website at www.efet.org

October 2017; or remaining in the market without the guarantee of being compliant with the storage obligations.

Whilst we recognise the existence of a so-called ticketing service, being provided by the incumbent supplier, whereby gas is sold and warranted as being compliant with the storage obligations we are not aware of the specific commercial details of such offer in this regard.

The gravity of the situation is such that **urgent measures are now necessary** otherwise there is the prospect of market players engaging in complex and costly legal actions. EFET, therefore, invites the Ministry of Energy to confirm any or all of the following:

- In a firm, clear and definitive manner how storage held in neighbouring countries can be used to meet Polish SOS obligations using available transportation capacity products;
- How gas imported for onward transit is to be distinguished from gas intended for Polish gas users and calculated;
- The grandfathering of all existing exemptions until their natural conclusion.

In the meantime **EFET calls for Gaz System and all other relevant parties to suspend the yearly auctions foreseen for March 6th at all IPs to Poland.** We stress that should the legal and regulatory framework be subsequently clarified network users should be given at least one month to prepare for the relevant postponed auctions.

We appreciate the gravity and the implication of our request but see no alternative due to the fundamental lack of legal and regulatory clarity and an undue withdrawal of already granted rights. Accordingly we have informed the European Commission and all relevant regulatory bodies of the above message.

Yours Sincerely,
On behalf of the European Federation of Energy Traders,

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

Jan Van Aken
Secretary General