CONSULTATION RESPONSE

Energy Traders Europe comments to the proposed amendments to the storage obligations.

Energy Traders Europe welcome the opportunity to comment on the long-awaited amendments to the Act establishing gas storage obligations in Poland (Dz.U. 2023 poz. 1650). Key points we wish to make regarding the consulted document are listed below, followed by more detailed reasoning. We also allow ourselves to annex some forward-looking remarks regarding other desirable changes to the functioning of the Polish gas hub. We are very keen to continue the discussion and supporting the development of liquidity on the Polish gas market.

Key messages

1. Gas purchases by RARS on the continuous market may be difficult to manage in a cost-efficient manner, hence auction-based procurement should be considered.
2. Interim provisions should ensure market entry is enabled as soon as possible, with transition to the new strategic stock regime envisaged for 1st April 2025.
3. Wholesale trading entities that do not act as suppliers in Poland should be waived from the new reporting obligations envisaged in the draft.
4. Proposed size of the strategic stock will retain high costs for Polish gas consumers and will likely severely restrict access to flexibility tools used to manage price volatility.

Detailed comments

Acquisition of gas via the exchange

While we appreciate the intention to ensure that the strategic stock is acquired in a transparent, market based manner, we are concerned that it might be difficult for RARS to hire personnel qualified to acquire and hedge the necessary volumes in a prudent manner. In particular, since art. 3 subpoint 8a rightly stipulates that RARS may engage exclusively in transactions related trading gas needed to establishing and maintaining the strategic reserve, hiring such staff may be in any case inadvisable. **We therefore suggest that the trade in strategic volumes is done via auctions.** In any case, under no circumstances RARS should engage in all-encompassing trading activities spanning beyond transactions aimed at establishing the targeted strategic reserve. Consistently, the act needs to make it clear that volumes in the strategic reserve should become available only in the context of emergency situations (cf. art. 26) after it becomes clear that market-based measures will be insufficient to alleviate the situation.

Ensuring gas market reopening without further delays

Considering the amount of time necessary to acquire the OGZ gas trading license in Poland, we believe that the **interim provisions should ensure companies may apply for a license under the new storage regime** before it officially enters into force, provided that they state the intention to commence operations no sooner than the reform's go-live. In addition, while we understand that the storage obligations revision would be difficult to implement for the 2024/25 heating season, **we see no reason why the new provisions could not enter into force already on 1st April 2025**. This, in combination with the interim provisions, would allow earlier market reopening to competition, potentially allowing the country to benefit from greater liquidity already for the heating season 2025/26.

New reporting obligations

Article 49 subpoint 1 establishes a requirement for trading entities to establish procedures ensuring uninterrupted supply of protected customers in the event of a disruption. Since Polish licensing requirements do not differentiate between pure traders and suppliers, **this obligation would inadvertently apply also to companies that do not deliver gas to consumers in the country.** We therefore believe that **this provision should enable excluding trading entities** from the obligation on condition that they submit a declaration that they are **not engaged in supplying protected consumers in Poland.**

Article 25e introduces a new monthly reporting obligation on companies nominating gas on exits to distribution grids and/or directly to customers connected directly to the transmission grid. **We would like to confirm that this obligation would not be extended onto trading entities that do not supply any end customers in Poland on the sole grounds of holding an OPG license.** We stress that the reporting requirements in Poland are already very extensive, involve considerable administrative costs and increase the risk of being found non-compliant, even if the reporting obligation comes down to submitting empty reports. We would also encourage Polish authorities to consider charging the "gas levy" as an additional component of the transmission charge, as this would limit the need to collect and verify the size of the contributions from the obliged entities.

Size of the strategic stock

As per our previous remarks on the earlier draft amendments of the storage obligations, we note that the defined size of the **strategic stock remains very large**, particularly when factoring in the potential size of the coefficient described in art. 25 subpoint 1c. The resultant reserve will likely take up all the available storage capacity in Poland, **creating**

considerable costs that will need to be recollected via the levy. In addition, given the preferential treatment of the strategic stock described in art. 2, these volumes will severely **limit the storage capacity made available to market participants for commercial use**. As a consequence, companies will have fewer tools available to manage price volatility. We therefore suggest that the authorities in Poland in due course reconsider the measures taken to ensure storage filling, as part of broader gas market reforms we outline in the annex to this letter.

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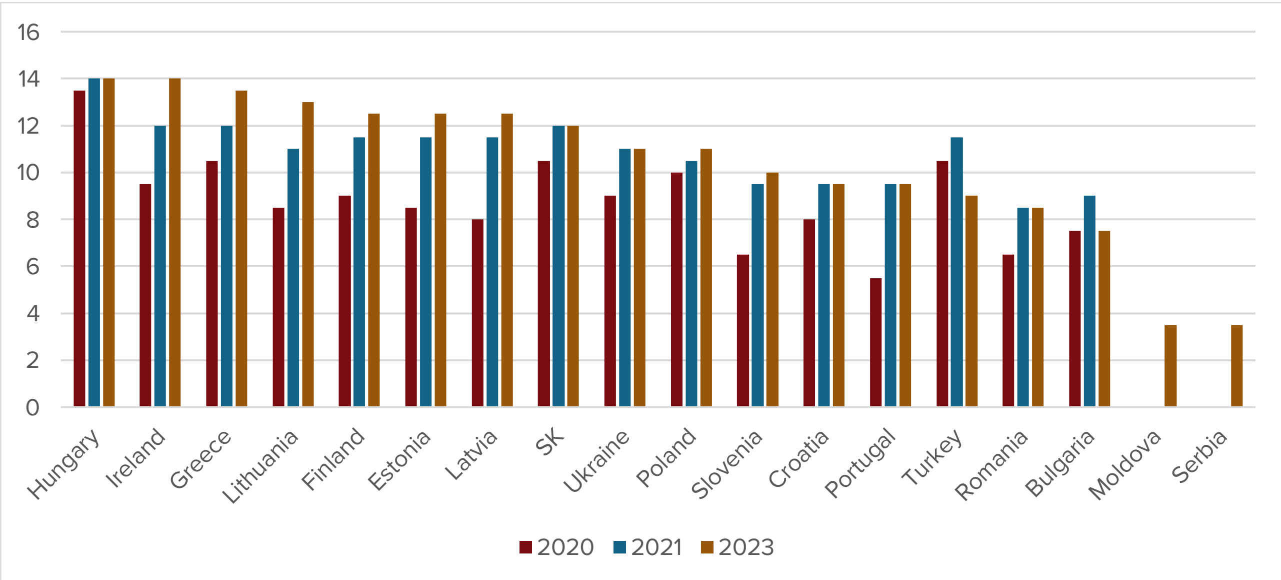
ANNEX

Over the years Poland has developed the necessary regulatory framework for the functioning of a gas market. Multiple investments have also been made in terms of expanding the natural gas network and diversifying the sources of supply. Collectively, this gave Poland all the necessary prerequisites to develop a liquid gas market. Nonetheless, several barriers to enter and trade on this market persist, keeping it underdeveloped and largely monopolized. In practice, the perception of the Polish gas hub is more negative than for countries that have undergone gas sector liberalization much later (see figure below).



Source: Energy Traders Europe annual Gas Hub Benchmarking study, https://www.energytraderseurope.org/documents/review-of-gas-hub-assessment-2023/

Alongside the discussed changes to the storage obligations requirement, several other reforms would be deemed desirable to unlock the full potential of the Polish gas market. These include in particular:

1. **A comprehensive reform of the functioning of the storage system operator (SSO).**

   With storage obligations (and going forward, the strategic stock) ensuring filling of storages regardless of the market conditions, **the operator has no incentive to structure the storage products offer in a manner that would be attractive to market participants**. Continued reliance of the SSO on state-enforced gas reserve will exert further pressure on end-consumer gas prices, particularly if the existing and future capacities are maintained exclusively to ensure additional supply insurance.

If incentivised to offer storage products matching the needs of the network users, **storage filling could be ensured through market mechanisms**, with the strategic stock becoming obsolete, or being established solely as a last resort measure. Such approach is successfully pursued on other, more developed hubs of the EU, allowing for a more optimal use of the gas assets, thereby bringing additional benefits to the consumers.

2. **Removing the licensing obligations**

   With numerous safeguards ensuring that market participants live up to their obligations on the gas market, we believe that **the obligation to acquire a license is an unnecessary bureaucratic burden**. Companies active on the EU gas market need to live up to collateral requirements imposed by the TSOs and trading platforms, while remaining under regulatory oversight regardless of whether they hold a license or not. In practice, the obligation to acquire a license does not offer any additional reassurance to either consumers or other market participants and nonetheless constitutes a major entry barrier. Instead of licensing, companies wishing to trade gas in Poland should be required to just register with the National Regulatory Authority – such approach is already practiced on the more developed hubs in Europe.

3. **Reducing the reporting obligations**

   Companies active on the Polish gas market are faced with **a multitude of reporting obligations** towards different bodies and with annual, quarterly and monthly granularity. These obligations come **on top of a robust EU framework ensuring trade transparency**, doubling the requirements and the administrative costs, indirectly also increasing the risk of being found non-compliant with the local market rules. We believe that the reporting requirements should undergo a thorough revision that would help limiting the number of additional reporting requirements down to the absolute minimum.

4. **Tackling the market power of the incumbent**

   We appreciate that the dominant player already holds the requirement to trade gas via the exchange and we support maintaining this provision until the market develops sufficiently. That said, we note that the incumbent's group holds a favourable position on the market, particularly due to having **exclusive access to the LNG terminal**. In order for greater competition to develop on the Polish market, we believe that better governance of the terminals could be invoked to ensure that the position of the dominant group can be challenged on commercial grounds. We stand ready to discuss how this could be best resolved.