



## **CONSULTATION DOCUMENT 02/2011**

### **NEW PROPOSED REGULATIONS OF THE GAS BALANCING PLATFORM**

#### **UNDER AEEG'S DECISION ARG/GAS 45/11**

**5 SEPTEMBER 2011**

#### **1. FOREWORD**

On 25 May 2011, GME published a Consultation Document (hereafter “[CDO 01/2011](#)”), implementing Decision 45/11 adopted by *Autorità per l'energia elettrica e il gas* (electricity & gas regulator, hereafter “AEEG”) on 14 April 2011 (hereafter “[Decision ARG/gas 45/11](#)”) regarding rules on merit-order gas balancing. The Consultation Document (“Proposed Regulations of the Gas Balancing Platform - PB-GAS”) was intended to gather comments and inputs from interested parties.

On 23 June 2011, with its Decision [ARG/gas 81/11](#), AEEG deferred the date of effect of the rules on merit-order gas balancing to the *first gas-day of December 2011*. Therefore, by agreement with AEEG, GME has published this new Consultation Document, which meets a requirement largely expressed by most of the respondents to the first consultation and which

provides interested parties with a further opportunity to give inputs. With this document, GME launches a second consultation on the new version of the proposed PB-GAS Regulations, taking into account both the comments received during the first consultation and GME's further insights into the topic.

The proposed PB-GAS Regulations are also accompanied by the relevant [Technical Rules](#), as demanded by all the respondents to the first consultation. The PB-GAS Regulations and the Technical Rules (i.e. the implementing and procedural provisions thereof) give a comprehensive picture of the applicable regulatory framework.

In addition to the [new proposed Regulations](#) and to the relevant Technical Rules, the document also summarises the comments received during the first consultation (ended on 3 June 2011), highlighting those which have been accepted and those which have been rejected and the reasons for the rejection.

Interested parties are invited to send their comments/proposals (in writing) on this DCO 02/2011 to GME's Legal & Regulatory Office (*Unità Legale e Regolazione*) by **27 September 2011** at the latest (end date of the consultation) in one of the following ways:

e-mail: [info@mercatoelettrico.org](mailto:info@mercatoelettrico.org)

fax: +39-06-80124524

mail: **Gestore dei Mercati Energetici S.p.A.**

**Largo Giuseppe Tartini, 3/4**

**00198 - Roma**

If you want us to keep all or part of your comments/proposals confidential, please specify which parts of your comments/proposals are to be kept confidential.

## **2. PROPOSED REGULATIONS OF THE GAS BALANCING PLATFORM AND RELATED TECHNICAL RULES**

The topics of the new proposed Regulations submitted for consultation have been grouped under six headings in order to facilitate their presentation:

1. Amendments to and approval of the PB-GAS Regulations
2. Amendments to and approval of the Technical Rules
3. Procedure of admission, exclusion of the Participant on request and penalties

4. Operation of the market
5. Storage systems used for the purposes of the PB-GAS
6. Notification obligations.

The comments and inputs received from the respondents to the first consultation (whether incorporated into the new version of the Regulations submitted for consultation or rejected and the reasons for the rejection) are summarised below.

### **1. Amendments to and approval of the PB-GAS Regulations**

As to the first aspect of the list, the respondents to the consultation proposed to revise the procedure for amending and supplementing the Regulations: i) for ordinary amendments, by extending the minimum period of consultation from 15 to 30 days; and ii) also for urgent amendments, by introducing an appropriate period of consultation before approval (15 days).

It was also suggested to set 15 days as the minimum period of consultation.

#### *GME's comments*

With regard to the above suggestions, GME feels that the solution adopted in the proposed Regulations is the one which mostly responds to the principles of managing the platform in a correct and orderly way and of safeguarding its regular functioning. In fulfilling its responsibilities as operator of the platform, GME needs a regulatory instrument to take prompt actions in urgent cases and solve - to the benefit of all Participants - situations which may jeopardise the proper operation of the platform.

The need and flexibility of this instrument are demonstrated by the fact that: i) the urgent amendment procedure is included in all the rules governing GME's markets; and ii) in many cases, this procedure made it possible to take timely actions in order to face particularly urgent market situations.

Therefore, GME has deemed it necessary to keep this procedure unaltered in the new version of the proposed Regulations submitted for consultation.

### **2. Amendments to and approval of the Technical Rules**

The respondents to the consultation focused on another aspect of the operation of the PB-GAS: the procedure for adopting the Technical Rules. In particular, most of them expressed interest in examining the content of the Technical Rules beforehand, so as to gain a deeper understanding of the mechanism of operation of the platform. Other respondents, instead, pointed out that also

the Technical Rules should be submitted for consultation or implemented only after AEEG's approval.

*GME's comments*

As to the above aspects, GME has accommodated the suggestions made by operators only in part. In particular, GME sees no problem in disclosing the Technical Rules to operators in reasonable advance of their implementation, except in case of urgent amendments. Conversely, introducing a procedure of consultation also on the Technical Rules and their subsequent approval by AEEG would weaken the meaning and intent of the instrument of the Technical Rules. Indeed, by their nature, they represent an operational flexibility lever, which is used, above all, to cover operational details. Extending the procedure of approval of amendments to the Regulations (consultation and approval by AEEG) to the Technical Rules would make the operational management of the platform inflexible, to the detriment, among others, of Participants' interests. This is all the more true considering the fact that the regulatory design of the platform was described in detail in AEEG's Decision 45/11 and that, consequently, the domains of regulatory action by GME are extremely limited. Indeed, under particular circumstances, if major changes are needed, GME may submit draft versions of the Technical Rules to Participants, setting a deadline by which they may send in comments, if any.

The procedure of adoption and enforcement of the Technical Rules associated with the PB-GAS Regulations is in line with those contained in the rules governing GME's markets. Therefore, GME has decided to keep these provisions unaltered in the new proposed Regulations submitted for consultation.

Nevertheless, accepting the suggestions made by the respondents to the consultation on DCO 01/2011, GME has enclosed the Technical Rules (i.e. the implementing and procedural provisions of the PB-GAS Regulations) hereto in order to gather comments and inputs.

**3. Procedure of admission, exclusion of the Participant on request and penalties**

Some respondents pointed to the need for reflecting more on the provisions of the proposed Regulations which govern access to and exclusion from the Platform and penalties. In particular, they stressed the apparent inconsistency between the obligation to bid arising from AEEG's Decision and the regulatory provisions under which the Participant may access the balancing platform and possibly request exclusion therefrom and GME may, by its own motion, impose disciplinary sanctions.

*GME's comments*

First of all, it should be clarified that the approach taken to the proposed Regulations rests on the distinction between the Participant's obligation to bid (failure to comply with this obligation involves the Participant's default on the Regulator's provisions) and the Participant's right, in full freedom, to choose or not to choose to participate in the PB-GAS (or to participate in the PB-GAS without entering any bid/offer). In this sense, a distinction should be made between the relationship existing between an authorised user and Snam (obligation to bid established by AEEG) and the legal relationship established between the Participant and GME after his/her admission to the PB-GAS. This distinction implies an appropriate sanctioning procedure that GME has included in the proposed Regulations. The procedure is aimed at enforcing compliance with the Regulations. Indeed, GME may impose penalties on Participants not for non-compliance with the obligations arising from AEEG's Decision ARG/GAS 45/11, but rather for failing to maintain a virtuous conduct, conforming to the rules of operation of the PB-GAS.

In its role of operator of the platform, GME is called to monitor Participants' compliance with the Regulations and related Technical Rules, with a view to ensuring the proper operation of the platform under criteria of neutrality, transparency, objectivity and competition. In view of this task, GME should adopt adequate instruments for protecting and safeguarding these principles, including penalties.

Hence, GME has decided to keep these provisions unaltered in the new version of the Regulations submitted for consultation.

In this connection, however, accepting the suggestions of some operators as to the need to identify criteria for determining the administrative penalty of article 40, para. 5 of the proposed Regulations, GME has established that (...) *GME may impose a pecuniary penalty of a minimum of twenty thousand/00 Euro and of a maximum of one hundred million/00 Euro; the amount of the penalty shall be **determined on the basis of the extent and severity of the damage caused by the breach.***

#### **4. Operation of the market**

##### **a) Advanced opening of the session, minimum and maximum limits of tradable volumes and additional bids/offers**

As to these aspects, the respondents to the consultation demanded in particular that:

- the session of the PB-GAS be opened in advance with respect to the gas-day whose applicable period is traded;
- GME verify compliance with the minimum and maximum limits upon validation of the bid/offer (i.e. upon receipt thereof) and not upon the technical adequacy verification (i.e. at the closing of the sitting);

- “additional bids/offers” be entered by default if the overall daily gas volumes offered for purchase or sale are lower than the minimum limit of gas volumes to be negotiated for purchase or sale, determined by storage companies under AEEG’s Decision 45/11.

#### *GME’s Comments*

GME has accepted the operators’ demand of entering bids/offers into the platform in advance with respect to the gas-day whose applicable period is traded. This option has been incorporated into the Technical Rule concerning the opening and closing hours of the PB-GAS, to which the reader is referred.

As to the second issue raised during the consultation, GME can verify the limits only at the closing of the sitting of the PB-GAS, i.e. upon the technical adequacy verification, given the trading mechanism which has been selected for the PB-GAS. Indeed, a verification upon entry of bids/offers would not be significant: since bids/offers are auction-traded, the Participant might change the previously entered bids/offers or add new bids/offers throughout the sitting, thus invalidating the previous verification. Furthermore, these verifications cannot be carried out on all the entered bids/offers before Snam Rete Gas has notified GME of the above limits to GME. Consequently, GME reiterates its choice of verifying compliance with the minimum and maximum limits at the closing of the market sitting, during the verification of the technical adequacy of bids/offers. Nonetheless, to respond to the operators’ request of being able to monitor the status of the entered bids/offers vs. the minimum and maximum limits of tradable volumes, GME will provide Participants with a report on which they may check - obviously as soon as the limits for each Participant are known - the status of their bids/offers vs. the limits.

As to the third aspect, i.e. additional bids/offers, GME has accepted operators’ requests by introducing the so-called “predefined bids/offers” into the new proposed Regulations. These bids/offers only specify the price (and not the related volume). The Participant may enter these bids/offers on a preliminary basis only to be taken into consideration in each sitting of the PB-GAS in which he/she has not entered bids/offers satisfying the minimum limits of tradable volumes. In particular, if a Participant has entered bids/offers for overall purchase or sale volumes lower than the respective limit values, as established in the Regulations, and if he/she has submitted a corresponding predefined bid/offer, GME will assign a bid/offer to him/her for a volume equal to the one required to reach the above-mentioned limits. Obviously, if the Participant has not entered predefined bids/offers, GME will not assign any additional bid/offer to him/her. However, GME will notify these circumstances to AEEG. For a detailed description

of the procedures for submitting predefined bids/offers and for valuing and handling them, the reader is referred to the enclosed proposed Regulations.

To this end, the PB-GAS participation agreement has been amended as follows:

- if the Participant (contracting party) has entered predefined demand bids or supply offers into the PB-GAS, he/she will authorise GME to assign such predefined bids/offers to him/her for a volume equal to the one which is required to reach the limit value determined as per the Regulations and for a price equal to the one specified in the related predefined bid/offer;
- the Participant will hold GME harmless against any liability for damage of whatever nature which may arise from the assignment of predefined bids/offers, including possible delays in the assignment thereof.

#### **b) Emergency procedure and management of material errors**

As regards these aspects, some respondents to the consultation asked GME to include the following provisions into the Regulations:

- back-up procedures ensuring the operation of the market even in case of malfunctioning of communications systems;
- “procedure for managing material errors” enabling Participants to correct the entered data even after the end of the sitting of the platform.

#### *GME's comments*

With regard to the first point, GME adopts an emergency procedure - just as in the other markets of GME - in case of malfunctioning of telecommunication systems. The procedure is specified in the Technical Rules.

As previously described, this choice responds to the intent of the regulatory instrument of the Technical Rules, which represent, by their nature, the operational flexibility lever through which detailed operational matters are often covered.

As to the “procedure for managing material errors”, GME does not deem it appropriate to include this option on a platform which is based on the auction-trading mechanism. Indeed, in this case, contrary to the continuous-trading mechanism, Participants may view, check and correct/revoke their bids/offers throughout the sitting.

To this end, GME reiterates that, during the market sitting, Participants will also have access – through the platform – to reports on which they may view the status of all the entered

bids/offers and, among others, check them for possible errors and verify the successful outcome of the related corrective actions.

#### **c) Access to the information system**

Some respondents to the consultation suggested the introduction of specific communication protocols and systems of acknowledgement of the transactions made on the platform.

#### *GME's comments*

Thanks to the technology that GME will use for the PB-GAS, each transaction made by a Participant will be confirmed by an acknowledgement system, as it happens in the other markets managed by GME.

#### **d) Determination of the results of the PB-GAS**

On this point, the following suggestions were made:

- revising the figures of Annex C to the Regulations, which were found to be inconsistent with the Transitory Provisions thereof and with AEEG's Decision ARG/gas 45/11;
- eliminating Article 29, para. 29.6, providing that the bids/offers entered by Snam Rete Gas shall have priority with respect to those entered by Participants;
- in case of equal price, introducing - in lieu of the time priority - a *pro-rata* mechanism to define the accepted quantities of bids/offers having the same marginal price.

#### *GME's comments*

As to the first suggestion, the figures of Annex C show the general criteria under which GME identifies the accepted bids/offers and the corresponding valuing price. These criteria apply both: i) in the transitory period, in which GME will consider only users' bids/offers with a sign opposite to the one requested by Snam Rete Gas; and ii) in the period after 31 March 2012, in which GME will also consider users' bids/offers with the same sign as the one requested by Snam Rete Gas.

As to the second aspect, i.e. the elimination of the priority of bids/offers entered by Snam Rete Gas vs. those entered by Participants, GME emphasises that this provision is also contained in AEEG's Decision ARG/GAS 45/11. Therefore, the suggested elimination would contrast with the rationale of the balancing system, i.e. ensuring that the balancing operator can procure and guarantee the availability of the related resources in view of the security of the gas system.



Finally, as regards the request of adopting a *pro-rata* system to define the accepted volumes of marginal bids/offers in lieu of the time priority, GME has incorporated it in the proposed Regulations enclosed hereto. GME has also established that, if bids/offers with the same price and with the lowest price priority among accepted bids/offers are to be partially accepted, these bids/offers will be accepted under the *pro quota* criterion, for a volume proportional to the one covered by the above bids/offers. Except when the volumes of Participants' accepted bids/offers are lower than the ones associated with the bid/offer of Snam Rete Gas, partial acceptance will not apply to the bid/offer of Snam Rete Gas, which always has the maximum priority.

#### **5. Storage systems used for the purposes of the PB-GAS**

Most of the respondents to the consultation noted the “inconsistency” between the provisions on the storage resources to be used for the PB-GAS laid down in AEEG's Decision 45/11 and those reported in the Regulations (Transitory Provision – Article 52 – Storage Systems)

##### *GME's comments*

With regard to this aspect, the above transitory provision has been removed from the new proposed Regulations.

#### **6. Notification obligations**

Some respondents expressed doubts about the provision under which GME, in publishing the bids offers entered by each Participant (Article 8.2 of AEEG's Decision 45/11, transposed into Article 10.2 of the proposed Regulations ...*the seventh day following the day to which they refer* ), shall also publish the name of the Participant.

##### *GME's comments*

This provision has been formulated in compliance with Article 8.2 of AEEG's Decision 45/11 (*GME shall publish the bids/offers received from each party on its website on the seventh day following the day to which they refer*). This is, among others, in analogy with the transparency provisions adopted in the spot electricity market.

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