NOTE OF DG ENERGY & TRANSPORT ON DIRECTIVES 2003/54/EC AND 2003/55/EC ON THE INTERNAL MARKET IN ELECTRICITY AND NATURAL GAS

THIRD PARTY ACCESS TO STORAGE FACILITIES

ORIGINAL TEXT	PROPOSED CHANGES
3. CONFIDENTIALITY	
As for combined operators encompassing SSO, the confidentiality requirements of Article 10 would apply in the same manner. However, one may argue that it is less relevant, since it is difficult to imagine that the storage operator as part of a combined operator would dispose of commercially sensitive information that is not available to the TSO, DSO or LNG operator.	*As for combined operators encompassing SSO, the confidentiality requirement of art.10 would apply in the same manner. One may argue that it is less relevant, since it is difficult to imagine that the storage operator as part of a combined operator would dispose of commercially sensitive information that is not available to the TSO, DSO or LNG operator,* ***but it is still a possibility and therefore this safeguard is required.***

Comment: If the TSO has to buy on the storage market in competition with shippers, suppliers and traders, it is not obvious that no conflict of interest can occur.

4. ACCESS TO STORAGE FACILITIES	
While storage is not the only tool offering flexibility to network users for the supply of their customers, it is one of the most important ones and considering the underlying economics, often the only suitable one. Supply flexibility in the sense of production or import flexibility, line pack and spot gas may also be in principle available, but would often not suit the needs of the customer/network user due to either the scale and the short notice of the flexibility required or the economics underlying. For instance, providing the entire seasonal flexibility by import flexibility would imply considerable pipeline capacity is left unused thereby exorbitantly increasing capital costs and rendering gas supply uneconomic and not competitive anymore.	*While storage is not the only tool offering flexibility to network users for the supply of their customers, it is one of the most important ones and considering the underlying economics, often the only suitable one. Supply flexibility in the sense of production or import flexibility, line pack and spot gas may also be in principle available, but would often not suit the needs of the* ***supplier*** ~~*customer*~~ ***or other*** *network user due to either the scale and the short notice of the flexibility required or the economics underlying. For instance, providing the entire seasonal flexibility by import flexibility would imply considerable pipeline capacity is left unused thereby exorbitantly increasing capital costs and rendering gas supply uneconomic and not competitive anymore.*

Comment: Whilst gas storage will be an important tool available to gas suppliers and other network users to balance their inputs with their own or customers' offtakes, both to meet short and long term variations, such flexibility instruments will normally be combined with a portfolio, a spot market and other tools. Suppliers, wholesaler and traders are likely to contract storage in combination with other instruments to build a portfolio.

Imports (as can be read in the IEA study on gas market flexibility) do provide a certain level of seasonal and annual flexibility. In some cases ~~regions~~ such imports may be an economic substitute for seasonal flexibility from local gas storage facilities.

The Commission takes the view that, if access to storage is related to a planned or existing supply contract, it would always comply with the requirements of technical and economical necessity. By contrast, access to storage under Article 19 does not extend to situations in which it can be proved that the purpose or intention of having such access is not related to the supply of customers. This is notwithstanding the provisions of Article 21 (Refusal of access).	*The Commission takes the view that, if access to storage is related to a planned or existing supply contract, it would always comply with the requirements of technical and economical necessity.* ***Although this is not a pre-requisite for access to storage for supply undertakings~~.~~*** *By contrast, access to storage under Article 19 does not extend to situations in which it can be proved that the purpose or intention of having such access is not related to the supply of customers****, noting that the definition of customers in Article 2.24 includes both wholesale and final customers****. This is notwithstanding the provisions of Article 21 (Refusal of access).*

Comment: Where there is TPA to a gas storage facility it must be available on a non-discriminatory basis to all gas suppliers, without any requirement to provide evidence of supply contracts. Article 19 links access to "the supply of customers", who in Article 2.24 include both wholesale and final customers. It not only be impractical and inefficient to require potential storage users to show their supply contracts to the storage operator to gain access, but would require excessive compliance obligations on the storage operator to ensure that such commercial information was not misused and would act as a barrier to trade. Notwithstanding, access to storage has to be granted only, when technically and/or economically necessary for providing efficient access to the system for the supply of customers. If the suppliers have adequate competitive alternatives (e.g. import flexibility or spot gas), within the relevant market, there is no necessity for access to storage.

Against the background of the above, it is obvious that SSO would need to offer a range of services, in order to enable access to storage facilities that complies with the criteria laid down in the directive, in particular Art 19. The yardstick could be what kind of services must be offered in order to allow all network users	*Against the background of the above, it is obvious that SSO would need to offer a range of* ***~~standard~~*** *services, in order to enable access to storage facilities that complies with the criteria laid down in the directive, in particular Art 19. The yardstick could be whether* ***standard*** *services ~~must~~*

requesting access to storage for the supply of customers economically doing their business.

should *be offered* ***and if so what those standard services should be*** *in order to allow network users requesting access to storage for the supply of customers* ***to do*** *their business* ~~*economically.*~~

Comment: In the interests of efficiency the Storage Operator should offer standard services, as required by the network users and gas suppliers to operate in the internal gas market. Where negotiated TPA is chosen by the Member State, the Storage Operator could also offer more tailored services e.g. in response to an individual storage user's request, provided that any such services are also offered to all other users on a non-discriminatory basis. For suppliers, the adaptation of standard storage packages to balance the supply and demand up to daily/hourly market needs can also be found by combining alternatives (including spot market, secondary markets etc.) for selling and buying the commodity

The wording of the relevant articles of the Directive implies an approach for access to storage that at least with respect to the result of the access, albeit not with respect to the procedure, is similar to the access to networks.

The wording of the relevant articles of the Directive implies an approach for access regimes to storage that at least with respect to the result of the access ***i.e. being non-discriminatory for that particular regime****,* ***and certain user requirements such as access to information*** ~~*albeit not with respect to the procedure, is*~~ ***will be*** *similar to the access to networks.* ***However, the access approach and associated procedures need to reflect technical and operational differences, as well as instances where storage facilities operate in a competitive environment.***

Comment: Whilst the result should be the same, to the extent that non-discriminatory access is achieved, and there are certain comparable requirements from users i.e. access to information, standardisation of contracts/codes, the access procedures should also reflect relevant the different procedure, function, market and physical and operational properties of the facilities. Contrary to regulated transmission pipelines, the pricing mechanism may reflect the alternatives and the price formation on the commodity market that determines the position a storage takes in a competitive market.