



**Consultation document no. 04/2016**

## **Fuel markets**

**Platform for exchange of liquid petroleum products for transport  
(P-OIL)**

## 1. Foreword

Following the previous DCO no. 03/2015 published on 29 July 2015, with this document Gestore dei mercati energetici S.p.A. (hereinafter referred to as GME) submits to consultation a new proposal for the operation model of the Platform for exchange of liquid petroleum products for transport (P-OIL) as well as the relevant proposed rules to the stakeholder consultation as per Art. 22, para. 1 of Legislative Decree 249/2012.

The start of a further consultative process on the proposed operation of the P-OIL was necessary in view of the changes that in the meantime have been made with respect to the initial proposal of the platform operating model shown in the previous consultation no. 03/2015.

In particular, after the previous consultative process, some additional insights that determined the need to introduce certain amendments to the market model initially assumed, were carried out together with the related institutions as well as with the Competition Authority (hereinafter referred to as AGCM).

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Parties concerned must submit, in writing, their comments to GME - **Institutional Relations and Communication**, no later than **20 May 2016**, term of this consultation by one of the following ways:

- e-mail: [info@mercatoelettrico.org](mailto:info@mercatoelettrico.org)
- fax: +39 06 8012 4524
- mail: **Gestore dei mercati energetici S.p.A.**  
**Viale Maresciallo Pilsudski, 122 - 124**  
**00197 – Rome - Italy**

Parties wishing to safeguard the confidentiality or secrecy, in whole or in part, of the documentation submitted are required to specify which parts of their documents shall be treated as confidential.

## 2. Introduction

Legislative Decree no. 249 of 31 December 2012 (hereinafter referred to as Legislative Decree no. 249/2012) in transposition of Directive 2009/119/EC of the EU Council of 14 September 2009 - laying down the obligation for Member States to maintain minimum level of stocks of crude oil and/or petroleum products - has set itself the goal of strengthening the national legislation on emergency oil stocks, as well as promoting the level of competition in the oil sector, thus expanding the opportunities for supply and procurement of logistics and petroleum products services.

In particular, in the context of pro-competitive actions promoted by Legislative Decree no. 249/2012, GME has been tasked to set up, organize and manage, among other things, a **wholesale market platform of petroleum products (P-OIL)** to encourage the negotiation of liquid petroleum products for transport (Art. 22, para. 1, of Legislative Decree no. 249/2012), whose constituent criteria and organizational and management modes have been defined, in implementation of the above mentioned provisions of Legislative decree no. 249/2012, by the Ministry of Economic Development with Decree no. 16617 of 9 August 2013 laying down the general principles that GME must follow while drawing up the proposed operating rules of the P-OIL.

In order to identify the constituent criteria of the platform, the Ministry of Economic Development in the Decree mentioned above (Art. 3, para. 1) provides, *inter alia*, that GME processes the proposes rules of the P-OIL by submitting it for future public consultation *in order to identify the real needs of those wishing to make use of the platform and to facilitate the matching of supply and demand (...)*.

In order to implement the provisions referred to above, by DCO no. 03/2015, GME submitted, on 29 July 2015, the **proposed operating rules of the P-OIL** to the public consultation of stakeholders, in order to gather comments and insights on its operating rules.

Then, after the aforementioned consultative process, it has, however, been necessary to go deeper certain key aspects of the operating model of the P-OIL proposed in DCO no. 03/2015 with the related institutions, among which, in particular, that relating to the indication of the geographic area in the sales offers, on a municipal basis, of the load point.

In particular, even at the request of trade associations, it has felt the need to check carefully whether and under what circumstances such information could, in some way, be a harbinger of potential anti-competitive implications, given that, on one hand, the adoption of a restricted area allows the participant buyer to get an accurate indication of the transport cost and, on the other hand, could help to reveal, even

before the transaction takes place, the identity of the seller, thus affecting the principle of trading anonymity on which the P-OIL is based.

Downstream of the further examination carried out on the subject, which also involved directly AGCM, in order to overcome the potential problems listed above, GME, welcoming the suggestions of AGCM, has defined a new platform operating model, against which it is considered appropriate to initiate a broad and comprehensive comparison with stakeholders.

This document shows, therefore, the following:

- Section 3 shows the principles of the **new operating model of P-OIL**, starting from the model originally proposed in DCO no. 03/2015;
- Section 4 shows the **new proposed rules of the P-OIL** in transposition of the **new operating model of the P-OIL**.

### **3. Operating model of the P-OIL**

The original operating model of the P-OIL provided for that the geographical indication of the load point (corresponding to the municipal area) was provided by the participant seller among the minimum information to be specified at the time of submission of the offers to sell (see DCO no. 03/2015).

As mentioned in the foreword, with reference to this aspect, GME has considered appropriate to examine in detail, with reference institution as well as with the Competition Authority, if the supposed predicted provision to disclose, among the information relating to the offers to sell submitted on the P-OIL, the geographical indication of the load point, expressed, in particular, on a municipal basis, could, in some way, be a harbinger of potential anti-competitive implications.

Following these insights, it emerged that the fact based on which, through the P-OIL, in the model shown by GME in DCO no. 03/2015, each seller could hypothetically access a list of the offers of all other sellers, raised some critical issues to the extent that this threatened to foster potentially collusive equilibrium, thus making the actions of the competitors easily measured by each participant.

Consequently, in order to avoid incurring these risks, GME, while accepting the suggestions made by the Competition Authority considered it appropriate to introduce some changes in the P-OIL originally proposed model, thus providing, in particular, to require the purchaser, in the process of accreditation from the individual seller, the indication:

1. of his own transport costs with regard to the loading locations of the sending seller, likely to daily update in the opening phase of the market session prior to the conduct of trading;

2. of the cost attributable to one or more specific provisions contained in the contract conditions disclosed by the single bidder seller;

and making sure that the prices displayed on the buyer platform, related to the seller's offers, with respect to which he has previously obtained an authorization to conclude transactions, already include the values of the aforementioned costs.

More in detail, the principles of organization and operation of the new P-OIL model provide that:

- Participants wishing to submit sales offers on the P-OIL made available in anonymized form – on the "Bulletin board" - a list of contractual conditions they wish to apply to their transactions, pointing out, at the aforementioned conditions, the location of the loading locations (City) to which those conditions apply and the holding or otherwise of the relative fiscal operating license. This information will be available in this section dedicated on the P-OIL and will not be disclosed at the time of exposure of the bids in the trading *book*;
- Participant interested in buying the product, in order to operate on the P-OIL, should require, in advance, enabling the participant seller compared to the aforementioned published Conditions;
- GME discloses the seller, owner of the contractual conditions for which the purchaser has requested the authorization, the name of the latter, in order to allow the seller carrying out any functional check upon the acceptance of the application allowing him to negotiate;
- GME notifies the applicant purchaser the acceptance or rejection of his application by the participant seller;
- the participant purchaser, before the start of each trading session of the P-OIL, with respect to each of the contractual conditions: (i) should provide the transportation costs attributable to each load point (CPC<sup>1</sup>); (ii) would indicate a total cost attributable to one or more specific provisions contained in the contractual conditions (CCC<sup>2</sup>);
- During the trading session of the P-OIL, GME makes viewable to the participant buyer only offers to sell corresponding to the contractual conditions with respect to which such

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<sup>1</sup> The cost of transport will have to be expressed in €/tons or €/cubic meter depending on the unit of measurement used for petroleum product object of the contractual conditions (see Section 4.5.). The underlying assumption is that the participant buyer shall estimate the kilometers and the transport cost for each ton or for each cubic meter eventually purchased.

<sup>2</sup> This cost is representative of any economic value that the participant buyer considers to be awarded to one or more elements of the contractual conditions he considers less favorable than the other contractual conditions under which the buyer is being credited (i.e., early payment times compared to other participants, etc.) and, where indicated, it must be expressed in €/tons or €/cubic meter depending on the unit of measurement used for petroleum product object of the contractual conditions (see Section 4.5.).

purchaser: (i) has previously been entitled; (ii) has previously indicated the CPC. The selling price displayed by the purchaser on his trading *book* will, therefore, be equal to the sum of the unit price of the offer submitted by the participant seller, the unit cost of transport CPC and, where indicated, the CCC<sup>3</sup>;

- Following the selection of an offer to sell, that is the conclusion of the transaction, the P-OIL system discloses the buyer the name and the remaining data and the information of the seller holder of contractual conditions applicable to the offer itself;
- The buyer shall pay the seller the price of the offer submitted by the latter (without the CPC and CCC items).

#### **4. Proposed rules of the P-OIL**

##### **4.1. General principles**

For the establishment of Platform for exchange liquid petroleum products for transport as for Art. 22, para. 1, of Legislative Decree no. 249/2012 (P-OIL), Article 1 (*Establishment of the Platform*), para. 2, of Ministerial Decree no. 16617 of 9 August 2013, provides that "*the platform works with independence, transparency and competition with the aim to make available to all interested parties a tool where it can be advertised and negotiated the demand for and supply of liquid petroleum products for transport (...).*"

GME has defined the proposal of the P-OIL platform operating rules, described below and annexed to this document (**Annex A**), in accordance with such principles of establishment of the platform, providing, *inter alia*, between the general principles behind the rules, that:

- GME exercises its functions in an open and non-discriminatory manner;
- GME equips itself with an organizational structure suitable for preventing real or potential conflicts of interest, and control procedures for the verification of compliance with the P-ILO rules;
- Participants are required to conform their behavior to the ordinary principles of fairness and good faith.

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<sup>3</sup> The information system of the P-OIL, before exposing offers to sell on the book viewable by individual purchasers, will, in fact, add up the bid price of the product with two costs CCC and CPC indicated by the purchaser.

In order to strengthen the effectiveness of these forecasts, GME has also provided for the adoption of appropriate disciplinary measures against the participants of the P-OIL, whose conduct may result in violation of the provisions contained in the platform's operating rules.

The whole operation rules of the P-OIL are contained within the regulatory body, called "Rules of the Platform for exchange of liquid petroleum products trading for transport (P-OIL)" subject to the approval of the Ministry of Economic Development in accordance with Article 22, para. 2, of Legislative Decree no. 249/2012. The technical-operational and procedural provisions of the Rules will instead be enclosed in special Technical Rules (DTF).

#### **4.2. Products marketable on the P-OIL**

Petroleum products that will be traded on the P-OIL are liquid petroleum products for transport or gasoline, gas oils, biofuels and LPG as per Ministerial Decree no. 16617 of 9 August 2013 (other than those intended for agriculture, fishing boat and vessels), as well as more petroleum products that may be designated by the Ministry of Economic Development and published by GME on its website, whose free warehouse delivery may take place: (i) within the day of conclusion of the negotiation; (ii) the day following the day on which the negotiation ended; (iii) the second day after the day on which the negotiation ended.

#### **4.3. Requirements for participating in the P-OIL**

They could participate in the P-OIL those who have adequate experience and competence in the use of telematics systems and security systems relating thereto, or those who have employees or assistants with such professionalism and expertise.

***They cannot participate, however, in the P-OIL those who are not in possession of the additional requirements set forth in the proposed Rules (Annex A)***

Party wishing to participate in the P- OIL must send GME a request for admission to the P- OIL, together with the documentation required for this purpose, as well as a signed copy of the Agreement for access to the P-OIL, both prepared according to the procedures shown in the Technical Rules.

Downstream the successful conclusion of the selection process, participants can access the P-OIL through special prearranged procedures to ensure recognition of the participants and the authenticity and confidentiality of the transactions made through the P-OIL. Participants will be required to keep and maintain the confidentiality of the access codes, and any other data or device required for access to the computer system of the P-OIL.

#### **4.4. Operating model and mechanism of the P-OIL**

##### Bulletin board

In the "bulletin board" of the P-OIL the participant seller makes available, in anonymous form, the contractual conditions applicable to his transactions, also pointing out, at the aforementioned conditions, the location of the loading locations (City) under which those conditions apply and the holding or otherwise of the relative fiscal operating license. This information will only be available on that board and will not be disclosed in the trading *book* at the trading offers therein.

Therefore, participants may submit offers to sell on the P-OIL only if they have previously made available on the bulletin board the contractual terms that will apply to their counterparts as a result of the selection (*catching*) of the offers on the trading *book* of the platform. In other words, in addition to the minimum information associated with each offer to sale (see below) - that have to be specified by filling in a specific *web form* made available on the platform - the participant sellers will disclose, on the bulletin board, all contract information more than the minimum ones referred to the sale offers.

Participant interested in purchasing a product on the P-OIL will, however, request prior to the participant seller, the entitlement to negotiate with respect to the aforementioned published contractual conditions, thus selecting, on the bulletin board, the contractual conditions and the load locations in respect of which he is interested in negotiating. With the authorization request, the buyer states to be aware of and to unconditionally accept the agreement made available, in anonymous form, by the participant seller.



Following the submission of such a request, GME discloses the seller owner of the contractual conditions for which the potential buyer has requested the authorization, the identity of the buyer, in order to enable the seller to perform the functional checks for the release of the authorization to negotiate with the requesting buyer. GME will communicate the requesting purchaser the application confirmation or refusal.

Furthermore, as already mentioned in the foreword, the participant buyer, before the start of each trading session of the P-OIL, relatively to each of the contractual conditions and corresponding load locations with respect to which he is enabled to negotiate:

- (i) must specify a transport cost attributable to each load point (CPC). That statement is mandatory and its value must be greater than zero. The CPC measure unit will be that applied to the petroleum product subject to such contractual conditions;
- (ii) can specify a total cost attributable to one or more specific provisions contained in the contractual conditions (CCC). That statement is optional and if done can only assume values greater than zero. The unit of measurement of the CCC is that applied to the petroleum product subject to such contractual conditions.

#### Trading book

During the trading session of the P-OIL, GME will make visible to the purchaser on his trading book, only valid offers to sell, corresponding to contractual conditions and their loading locations against which such purchaser has been previously enabled and only if the same buyer has previously indicated his CPC and any CCC. These offers will be displayed on the book with a sales price, including the value of the CPC and the CCC, the latter only if enhanced.

Offers to sell, for each marketable product, submitted by participant sellers through a specific web form, will be shown on the trading book in anonymous form (without specifying the proposing participant and the related contractual conditions) and must contain at least the following information:

- type of product offered;
- quantity;
- unit price;
- tax-free product or product in suspension of excise duty;
- expiration date of the offer;
- delivery day.

In relation to some of the previous information, it should be noted that:

- the type of product offered refers to products that may be traded on the platform that, at least in a first phase, are:
  - Petrol EN 228
  - Petrol EN 228 - 100 RON (performance petrol)
  - Oil EN 590
  - Arctic oil EN 590 (there is no EN specification as each company offers a winter diesel fuel with its own characteristics))
  - High-performance oil EN 590 (there is no EN specification as each company offers a performance diesel with its own characteristics)
  - LPG
  - Biofuels
- the unit price will be viewable on the book including the CPC and any CCC.

The web form devoted to the participant seller includes also "field", to fill out, which allows the participant seller selecting from the following delivery features of the product:

- Quantity in liters compensated at 15°C;
- Ambient temperature;
- Equalization or temperature;
- Other (fillable field).

***As mentioned above, following the submission of offers to sell, GME will carry out the validation checks and check that:***

- The seller participant is not suspended from the P-OIL;
- The offer contains at least the above mentioned information.

In case of failure, the computer system of the GSE will reject the offer, stressing the participant seller why the checks are not valid. If instead the validity verifications are successful, the sales offer will be published on the trading book and made viewable by the participants to whom the participant seller has previously issued a license to negotiate.

Consistent with what was originally anticipated (see DOC no. 03/2015), the final market model proposed here will provide for a trading mode of the "*catching*" type under which the participant buyer, for the conclusion of the respective transaction, selects, an offer to sell submitted by the seller from his trading book, indicating only the quantity of petroleum product he wants to purchase. The price for the transaction end will be quoted by the participant seller in the sales presentation of the offer (unit offer price).

It is understood that the buyer can view and select the sales offers on his trading book only if the same is suspended from the P-OIL.

Only after the *catching* of offers to sell, the P-OIL system will make it known to the purchaser the identification information of the seller and the contractual conditions applicable to the transaction.

If a participant selects the offer of sale displayed on the trading *book*, the transaction shall be deemed concluded and binding only between the contracting participants: on the P-OIL, GME will not be in fact a negotiating partner of the participants.

Due to the conclusion of a transaction on the P-OIL:

- Participant, which will submit offers to sell, irrevocably agrees to sell and deliver at a given loading location the quantities of petroleum products covered by the transactions executed in accordance with the contractual conditions by the same made available on the P-OIL;

- Participant selecting the offer will irrevocably accept purchase and to ensure and pay the amount of the petroleum products subject to the transactions executed according to contract terms made available by the participant seller on the P-OIL.

The deliver /collection of amounts relating to petroleum products traded on the P-OIL will be carried out among the participants in compliance with the contractual conditions defined between the participants themselves.

#### **4.5. Unit of measure adopted on the P-OIL**

For the purposes of the Rules:

- The unit of measurement of petroleum products, with the exception of LPG, is the cubic meter, specified with two decimals;
- The unit of measurement of LPG petroleum product is the ton, specified with two decimals;
- The units of measurement in the unit prices of petroleum products, with the exception of LPG, is the Euro/cubic meter specified with two decimals;
- The units of measurement in the unit prices of petroleum product GPL is the Euro/ton, specified with two decimals.

All rounding will be performed by applying the mathematical criterion. In particular, the figures are rounded up or down to the nearest last decimal allowed and, if the result is halfway, they are rounded up.

**Annex A – Proposed rules for the operation of the Platform for exchange of liquid petroleum products for transport (P-OIL)**