

## Conclusions of the

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Of the 15<sup>th</sup> meeting of the European Gas Regulatory Forum

Madrid, 6 • 7 November 2008

### **DAY 1**

#### 1. Regulation (EC) No 1775/2005 • Monitoring Art 6 and Art 7

1. The Forum thanks ERGEG for its monitoring of Article 7 (balancing) of Regulation (EC) No 1775/2005.
2. The Forum noted the ERGEG's monitoring results showing a wide variation in implementation of the guidelines. The Regulation states that Member States shall ensure that TSOs endeavour to harmonise balancing regimes, but the monitoring exercise shows that this goal is not met as balancing rules vary widely within the EU. ERGEG considered that the GGP-GB are not specific enough and that more enhanced guidelines need to be developed. ERGEG and stakeholders ask for greater harmonisation of balancing regimes, integration of balancing zones, market-based balancing; and conversion and coherence of balancing regimes.
3. The Commission and ERGEG will continue to cooperate on the monitoring of Article 6 (Transparency) Article 3 (tariffs) and 7 (balancing) of Regulation (EC) No 1775/2005. The cooperation aims to avoid overlap with the Commission's study that will analyse the need for harmonisation of tariff and balancing regimes on European level.
4. The Commission and stakeholders underline the key role of regulators in continuous monitoring compliance with existing legislation, and ERGEG called on all regulators to act upon the monitoring results to enforce compliance with the Regulation.
5. The Forum welcomes EFET's analysis on compliance with the Regulation from the point of view of network users, and asked EFET to continue its analysis. The Forum asked the involvement of all network users in this work, in particular providing feedback to EFET's analysis.
6. The Commission thanks EFET, OGP, Eurogas, Eurelectric, CEDEC and GEODE for their list of minimum transparency requirements which shows the need to enforce existing transparency requirements, on one side, and the need to further develop the Regulation in this respect, on the other side. IFIEC stated it also agrees with the list of minimum transparency requirements. These Associations, together with ERGEG, ask that these minimum requirements are made binding. The Commission will analyse the list and the need to make it binding.
7. The Forum agreed that TSOs can already provide the information asked for in the list of minimum transparency requirements on a voluntary basis. GTE stated that TSOs will work on this in particular by organising a workshop in early 2009, but that they have to be allowed to recover the costs. ERGEG stated that national regulatory authorities should allow TSOs to recover these costs

as they are minor. At the same time, TSO will focus implementation on those requirements which demonstrably do not involve additional costs. ERGEG and GTE are asked to report on progress at the next Madrid Forum, in particular to ensure that cost of publication of information can be recovered.

8. In order to improve the monitoring of the application of the Regulation, ERGEG and the Commission invite all other Madrid Forum participants to indicate priorities under current legislation for which they see a need for additional monitoring. ERGEG and the Commission request that this information is communicated before the end of the year.
9. The Forum welcomes the presentation by Ofgem on behalf of ERGEG, on the Northwest regional initiative, concerning improving transmission transparency. The Forum asks for an update of this project at the next Forum and recognises the usefulness of replicating this initiative as appropriate in other regions. In this framework it was announced that Fluxys will participate in the publication of day-ahead data.
10. The Forum welcomes the transparency platform ("www.gas-roads.eu"). developed by GTE. The Forum invites GTE to have the platform online as soon as possible and to continue to develop it. GTE will cooperate with all stakeholders and ERGEG in developing the transparency platform.

## 2. LNG

11. The Forum welcomes the presentation of the Commission on LNG following the LNG study and its assessment of the GGPLNG presented by ERGEG at the last meeting. It invites ERGEG to monitor the GGPLNG and report its findings to the next Forum.
12. Stakeholders underlined the need for any Community level action on LNG to recognise the fact that LNG is a global business and to take into account the possible impact of Community level action on the attractiveness of the European gas market.
13. Some stakeholders drew attention to broader LNG policy issues such as the significant difficulties encountered in the planning and permission process by terminal construction projects ("NIMBY") or Security of Supply considerations which are very important but outside the scope of the regulatory issues addressed by this Forum. The Commission reminded that some of this broader policy issues will be referred to in the upcoming Second Strategic Energy Review.
14. The Commission asked stakeholders for their feedback on its draft discussion paper on LNG, by the end of January 2009.
15. The Forum broadly agrees with the analysis provided, the objectives set and the Action Points identified by the Commission in its draft discussion paper prepared by DG TREN.
16. Stakeholders agreed to contribute to the work on the following action points, in cooperation with the Commission, and present progress to the following Forum on the following issues:
  - Further analysis of tariffs and revenue regulation applied to LNG terminals;
  - Assessment of benefits of detailed requirements for tradability of terminal access services
  - Assessment of possibilities and benefits of standard contracts offered for the same LSO services;

- Identification of all technically possible and commercially relevant "unbundled services";
- Assessment of costs & benefits of minimum gas quality requirements at the entrance of terminals in the development of standards issued to CEN;
- Assessment of steps to improve cooperation between LSOs and interconnected TSOs;
- Analysis of the need for harmonisation of anti-hoarding notification periods and anti-hoarding rules regarding the effect on capacity rights;
- [if the analysis above concludes that harmonisation is needed] make recommendation on what such notification period and anti-hoarding rules should be;
- Analysis of the need for rules on prospective transparency;
- Analysis of the need for detailed rules on transparency with regards to services offered;

17. GLE offered to support the work on these points by organizing a workshop with stakeholders and ERGEG in March 2009. The findings of the workshop will be reported to the next Forum.

### 3. Storage

18. The Forum recognised the importance of storage for competition and security of supply.

19. The Forum welcomed ERGEG's survey on existing allocation and congestion management methods implemented by SSOs which shows that a wide range of different approaches to allocate capacity in case of congestion are used. The Forum invited ERGEG to consult the relevant stakeholders on the conclusions of this survey. The consultation should focus on the key questions defined by ERGEG:

- Does First-Come-First-Serve treat new entrants and incumbents equal or are alternatives solutions more appropriate in specific market situations?
- Definition of a congestion management procedure (making capacity available, reallocation);
- How effective are the Congestion Management Practices (CMP) regarding capacity release as some CMP are still lacking the practical test?
- How capacity, traded on secondary market, is really made available and to what extent is this transparent?
- Are "interruptibles" equal to other CMP?
- How can a practical UIOLI be designed in the storage market?

20. Stakeholder commented that improved transparency is key to improvement of the storage market.

21. The Forum welcomes the work by GSE regarding capacity allocation and congestion management and the progress it reported. EFET recalled the conclusions of a previous Madrid Forum which stated 'that relevant national authorities should analyse the arrangements between SSOs and affiliated or integrated supply businesses to ensure that these arrangements are fully consistent with fair and non-discriminatory access to storage by third parties.' (Conclusions of the 10<sup>th</sup>

meeting of the European Gas Regulatory Forum, Madrid 15 • 16 September 2005, paragraph 18; <http://ec.europa.eu/energy/gas/madrid/doc-10/conclusions.pdf>)

22. However, the Forum also agrees that the high-level principles can be translated in more detailed rules on how use of storage capacity can be optimised. Therefore, it asked ERGEG and GSE to develop Capacity Allocation and Congestion Management principles in more detail, based on ERGEG's and GSE's consultations, to see how they can be made more effective in guaranteeing access while at the same time providing sufficient investment incentives. ERGEG and GSE will cooperate with all interested stakeholders and are asked to report on this work at the next Madrid Forum.
23. In light of the internal market legislation referring to criteria that determine the regulatory regime that apply to storage facilities, the Commission invites ERGEG and GSE to develop these criteria to provide input and to present their work at the next Madrid Forum.
24. The Forum asked ERGEG and GSE to analyse in cooperation the apparent discrepancies in their reports presented at the Forum and report their findings to the next Forum.

#### 4. New Infrastructure • Art. 22

25. The Forum welcomes the new interpretative note as presented by the Commission. Stakeholders stress the case-by-case basis of any Article 22 decision. They welcome the guidance provided by the note with respect to information to be provided, relevant arguments when assessing the criteria and possible conditions to be imposed.
26. ERGEG supports the draft Interpretative note as presented by the Commission, and recommends that national regulatory authorities use it as the basis for exemption decisions.
27. The Commission will reflect on the comments expressed by the Madrid Forum participants, and publish the Interpretative note on Article 22 once it will have received additional comments to be provided by stakeholder by the end of November.

## DAY 2

### 6 Third Package

28. The Commission presented the current status of the discussions in the Council and the European Parliament on the third package. The Forum invited the Council and the European Parliament to start discussions to come to an agreement as soon as possible, but certainly before the end of the current legislature of the Parliament.
29. The Forum thanked ERGEG and GTE+ for their work to prepare the implementation of the third package as soon as it is agreed.
30. The Commission called on all stakeholders to participate in the consultation process of ERGEG, give feedback to the documents ERGEG presented, and participate in the public hearing on 11 December 2008.
31. The Forum asked ERGEG and GTE to consult the market on the priorities for the network codes, and to see jointly how their respective processes will fit together and how they can cooperate in defining the process to develop framework guidelines and network codes, so that it is efficient, in particular with respect to the consultations.
32. The Forum invited CEN to continue its discussion with ERGEG, GIE and other stakeholders regarding the harmonisation of terminology used in the context of the internal gas market and related to technical issues. CEN asked for comments by the end of 2008 and they will organise a meeting by February 2009 at the latest.

### 7. Gas Regional Initiatives

33. The Forum thanks ERGEG for work done and congratulates it with concrete developments in the three regions;
34. The Forum asks for Member States' involvement at governmental level in the regional initiatives to eliminate existing impediments and address legal constraints, as in the positive examples, such as the case of South Regional Initiative, presented by ERGEG.
35. The Forum recognises that close and effective collaboration between NRAs and TSOs, as well as other stakeholders is very important in order to achieve results;
36. The Forum thanks EFET for its presentation of concrete examples of positive developments and possible solutions to persisting problems in market integration.
37. The Commission announced that it will launch a study on the effectiveness of regional initiatives. This study will look at the organisation and progress in the different regions to identify best practices that can be replicated to other regions.
38. The Forum thanks EASEE-gas for its progress and supports the implementation of CBP's on a regional basis. It requests that regulators and participants in the Regional Initiatives continue good cooperation with EASEE-gas to implement the CBPs.

39. The Forum welcomed the presentation by Marcogaz that gave an update on the work of CEN on the gas quality mandate, and congratulated the parties involved with the progress made.
40. Forum takes note of the letter of EFET, Eurogas, Eurelectric and Geode, backed by IFIEC, supporting the regional cooperation in the 3<sup>rd</sup> package.