

## **Conclusions of the**

### **11<sup>th</sup> meeting of the European Gas Regulatory Forum**

**Madrid, 18-19 May 2006**

#### **I. General**

1. Participants at the eleventh meeting of the European Gas Regulatory Forum, the Commission, the representative of the Austrian Presidency, Regulators, representatives of Member States of the EU and other EEA Member States as well as the EFTA surveillance authority, industry and consumers, stressed the need for consolidating rapid progress following the implementation of Directive 2003/55/EC on a broad range of issues relating to the creation and operation of a fully operational and integrated internal gas market. Representatives of both the Ministries in charge of energy and the regulatory authorities responsible for the gas sector of the candidate countries participated in the meeting of the Madrid Forum with a view to assisting the countries in preparing for full participation in the internal gas market.
2. The Forum welcomed the work accomplished since previous meetings of the Madrid Forum, notably by the Commission, the Regulators, GIE and EASEE-Gas. The Forum stressed the importance of rapid completion and implementation of this work in order to consolidate tangible progress. The Forum also highlighted the importance of the Regulation on conditions for access to the natural gas transmission networks and underlined the need of its full, unrestricted and consistent application from 1 July 2006.

#### **II. The Green Paper: A European Strategy for Sustainable, Competitive and Secure Energy**

3. The Director General of DG Energy and Transport of the European Commission, Mr Matthias RUETE presented the recently adopted Green Paper of the Commission on “A European Strategy for Sustainable, Competitive and Secure Energy”.
4. The participants of the Forum welcomed the presentation, and underlined the importance of this initiative of the Commission and presented their views on a number of aspects addressed by the Green Paper with relevance for security of gas supply and the well functioning of the internal market for gas.
5. The Commission pointed out that it will, as the first follow-up to the Green Paper, notably adopt by the end of this year a Strategic EU Energy Review, the 2006 report on the completion of the internal electricity and gas markets, an Action Plan on energy efficiency and a priority interconnection plan for electricity.

#### **III. Regulation 1775/2005: Draft explanatory note on tariffs**

6. The Forum welcomed the draft explanatory note on tariffs as a good basis to ensure effective and consistent application of the Regulation in Member States.

7. Participants raised a number of issues, which would require further consideration prior to finalisation of the note. In particular, Germany and GIE voiced their concerns with respect to the need of cost-based tariffs and the role of benchmarking as pointed out in the draft note of the Commission. They underlined their view that the Regulation would not exclude alternatives to the cost-based approach, but would also allow benchmarking to play an essential role in this respect. The Commission reiterated its view as stated in the draft explanatory note that, according to the Regulation, as a general principle, tariffs have to be established on the basis of costs.
8. The Commission reiterated its view that the relevant provisions of the Regulation (as for tariffs Article 3) apply to all tariffs or the methodologies to calculate them, which are applied by transmission system operators and approved by the regulatory authorities pursuant to Article 25(2) of Directive 2003/55/EC, as well as tariffs published pursuant to Article 18(1) of that Directive. As a consequence, the provisions of Article 3 of the Regulation do not apply to any other kind of tariffs. ERGEG offered to present recommendations on how to set up tariffs for transport across several countries.
9. The Commission announced its intention to issue a final version of the explanatory note on tariffs before the next Madrid meeting. It invited stakeholders to submit their views, where considered appropriate, in written by end of June.

#### **IV. Regulation 1775/2005: Draft explanatory notes on Capacity Allocation Mechanisms (CAM) and Congestion Management Procedures (CMP)**

10. The Commission presented a revised draft of the explanatory notes on capacity allocation mechanisms and congestion management procedures, which was in generally welcomed by the Forum.
11. The Forum highlighted the need to ensure non-discriminatory and transparent capacity allocation mechanisms, as required by Regulation 1775/2005 and set out in more detail in the draft explanatory note on capacity allocation mechanisms. They also agreed that effective congestion management procedures, such as UIOLI provisions and secondary market capacity trading as set out in the draft explanatory note on congestion management procedures would be needed in order to overcome contractual congestion. Most stakeholders also stressed the need for a clear, stable and reliable framework for investments across the internal market as well as appropriate incentives, in order to cope with congestion.
12. Issues raised in the subsequent discussion on the notes included notably:
  - The possible role of capacity calculating principles in order to ensure that maximum capacity is offered to the market;
  - The need to take appropriate account of transit flows when setting up an entry-exit capacity system;
  - Further clarity concerning the role of an open season and an open subscription period in the context of the application of the Regulation;
  - Some over-capacity including potentially stranded investment should be accepted;

- Clarification that allocation mechanisms for exit capacity for end-users ensures continuity of gas supply to existing customers in the event that the system is expanded to include new customers.
13. The Commission announced that it will review the revised version of the draft explanatory notes CAM and CMP, in order to take into account the discussions of the Madrid Forum, and will strive for publishing a final version of these notes before the next Madrid Forum. It invited all stakeholders in the Madrid Forum to submit their views on the notes voiced in the Forum in a detailed manner and in writing before the end of June.
  14. The Forum welcomes the work done in visualising congested points in the European network and invites ERGEG to complete its work with a view to increasing transparency.
  15. On the basis of the final version of the explanatory notes on CAM and CMP and in the light of the forthcoming discussions on the DEN on transparency requirements, the Commission may request advice from ERGEG on how certain elements of the current guidelines annexed to the Regulation could be clarified. ERGEG offered to present in close cooperation with GTE selected congested transmission routes in Europe and present a report on the status of congestion and best practice mechanisms which have been implemented by TSOs to sort out congestion at the next Madrid Forum.
  16. Such elements may, among other things, relate to certain elements concerning new infrastructure and transparency. In this context, ERGEG declared its willingness to develop guidelines on the implementation of open season procedures in consultation with the relevant stakeholders.
  17. The Forum recalls recital 19 of Regulation 1775/2005, according to which the Commission will ensure prior consultation of all relevant parties concerned with the Guidelines, represented by the professional organisations and of the Member States within the Forum when proposing to amend the Guidelines laid down in the Annex to the Regulation. The Commission will inform the stakeholders on what part of the DEN on CAM and the DEN on CMP will be the basis of possible amendments to the Guidelines.
  18. The Commission highlighted in the light of the discussions on how to overcome long-term physical congestion the need for further considerations on how to identify economically viable investments. Any measure in that respect has to meet market demand and avoid long-term physically congested situation, must not jeopardise ongoing investments and has to provide a clear, stable and reliable framework for investments in transmission infrastructure across the internal market.
  19. The Commission and ERGEG should assess in close cooperation with relevant stakeholders the status of compliance with the transparency requirements of the Gas Regulation and issues surrounding transparency including what information needs to be made available to help ensure that the market operates efficiently and how network operators manage the information to ensure access to it is fair and non-discriminatory. The report should also identify the need for detailed transparency requirements for advice to the EC.
  20. The Commission will verify whether the two notes can be combined and announced its intention to issue the final version of the notes before the next Madrid meeting and

stressed the importance of consistent application of the relevant provisions on tariffs laid down in the Regulation.

## **V. Interoperability**

21. The Forum welcomed the important work undertaken by EASEE-gas since the 10<sup>th</sup> Madrid Forum on gas quality issues and agreed on the importance of resolving the gas quality issue in order to facilitate a well functioning internal market. It took note of the fact that EASEE-gas is not in a position to recommend an appropriate solution for each Member State to accept gas conforming to EASEE-gas specification at the border, but highlighted that appropriate solutions must be found so as not to hinder the free flow of gas across the European market.
22. The Forum stressed the need to study common technical issues on a European level linked to the implementation of the EASEE-gas CBPs on gas qualities, including the functioning of gas appliances, safety, emissions and efficiency. The Commission will explore ways to make progress in this area in consultation with EASEE-gas and Marcogaz and taking into account the views of relevant stakeholders.
23. Following a brief presentation on the state of play of its interoperability project, the Commission asked stakeholders in the Forum to actively contribute to the successful implementation of the project.

## **VI. Gas Regional Initiative**

24. ERGEG presented its Gas Regional Initiative, which was welcomed by the Madrid Forum. Participants stressed that the Gas Regional Initiative represents a useful interim step towards a fully integrated, well functioning market, which was also confirmed by ERGEG. The Forum also underlined the importance of ensuring coherent development of the EU single market for gas.
25. Norway, with the support of some participants requested to be a full member of the Gas Regional Initiative. ERGEG accepted to reconsider the situation on the basis of a written request.
26. GIE stated that it will consider its involvement in a potential European winter outlook, which was welcomed by the Forum.
27. Some participants noted concern that an identification of individual regions across Member States, subject to particular regulatory focus, might stabilise market segmentation. OGP underlined the importance of producers being represented at European level in the Gas Regional Initiative.

## **VII. Guidelines for Good Practice for Storage System Operators**

28. The Forum welcomed the preliminary report of ERGEG on the implementation of the GGPSSO and noted that progress was made since the last report at the end of December 2005, although considerable work remains to be done, in particular with respect to transparency and secondary markets. ERGEG invited all stakeholders of the Forum to bring forward their views on the preliminary report of ERGEG before 29<sup>th</sup> June and stressed that until that day SSOs still have the possibility to demonstrate improvements in the implementation of the GGPSSO.

29. The Forum thanked GSE for the presentation of its report on how storage operators represented by GSE implemented the GGPSSO. The Forum expressed its regrets concerning the level of compliance with the GGPSSO, and the Forum urged all storage operators to implement the GGPSSO without delay.
30. EFET reminded the Forum that there is an agreement in the GGPSSO for the SSOs in vertically integrated companies to provide their national regulatory authorities upon request with the terms and conditions relating to storage use by the affiliated companies.
31. The Forum invited ERGEG to finalise its monitoring exercise on access to storage and what is required to ensure fair and non-discriminatory access to storage facilities in line with the provisions of Directive 2003/55/EC and present its final report to the next Forum by taking into account views of stakeholders on major changes of compliance by 29 June 2006. This report may provide input on possible further measures at European level, in order to ensure non-discriminatory and transparent access to storage facilities.

### **VIII. Guidelines for Balancing**

32. The Forum underlined that fair and non-discriminatory balancing rules are crucial for a well functioning internal market.
33. The Forum welcomed the recent ERGEG consultation process on guidelines for good balancing practice and the development of the guidelines as ERGEG's advice to the European Commission of how to apply the relevant provisions laid down in Article 7 of Regulation 1775/2005. ERGEG should submit its final advice on balancing issues taking into account views of stakeholders through ERGEG's consultation process.
34. The Forum agreed that balancing regimes should converge to a market based approach and stressed that regional balancing markets must be compatible with the goal to achieve a single European gas market and invited all stakeholders to accelerate the process.
35. The European Commission took note of the ERGEG initiative and stressed that the topic of balancing has to be considered with a strong European perspective. In that respect the European Commission and the Forum invited ERGEG to closely coordinate amongst themselves, particularly within the framework of the regional initiatives, in order to achieve substantial progress.