

**Conclusions of the  
12<sup>th</sup> meeting of the European Gas Regulatory Forum  
Madrid, 20-21 February 2007**

I. General

1. Participants at the twelfth meeting of the European Gas Regulatory Forum, the Commission, the representative of the German 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 candidate countries of the EU and members and observers of the Energy Community also participated in the meeting of the Madrid Forum.
2. The Forum welcomed the work accomplished since previous meetings of the Madrid Forum, notably by the Commission, the European Regulators' Group for Electricity and Gas (EREG) and all stakeholders. The Forum stressed the importance of rapid completion and implementation of this work in order to consolidate tangible progress.
3. The Commission thanked EREG for the finalisation of the report on compliance with the Guidelines for Good Practice for Storage System Operators which was presented at the last Joint Working Group of 29 November 2006. The report has been published on the EREG website.
4. The Commission announced that the Explanatory notes on tariffs and the note on capacity allocation and congestion management, which merges the two separate notes that were discussed in the previous Madrid Forum, have now been finalised and are going through the internal approval procedure. They will be published as Commission staff working documents by April.

II. Regulation 1775/2005: Compliance monitoring report

5. EREG presented the interim results of their monitoring exercise on the compliance of European TSO's with the transparency requirements of the Regulation 1775/2005 on conditions for access to the natural gas transmission networks. This monitoring exercise was requested by the Commission to EREG through a letter sent in November 2006. A more detailed analysis of compliance with the requirements of Regulation 1775/2005 monitored in Gas Regional Initiatives' (GRI) Region South Southeast was presented.
6. The Forum stressed the importance of the unrestricted and consistent compliance with the requirements of Regulation 1775/2005 and welcomed the start of the monitoring undertaken by EREG on the compliance with Regulation 1775/2005. EREG stated that it will present a single and coherent monitoring report covering the whole internal gas market. The compliance report on transparency will be published in May. EREG's final report will be presented at the next Forum and EREG will ensure appropriate consultation with stakeholders. The Forum suggested that in the monitoring of the

Regulation ERGEG should as well assess compliance against effective market needs and could make use of the available Explanatory Notes and Guidelines for Good Practice.

7. ERGEG stated that it will provide information on the level and the framework of penalties as input to the Commission for any new measures as necessary.
8. With a view to meeting market demand for a harmonised and coherent implementation of the transparency provisions of Regulation 1775/2005 the Forum welcomed GIE's proposal to create a European platform starting with transparency issues, in close cooperation with the relevant stakeholders, notably EASEE Gas and users. GIE stated that they will organise a workshop in the framework of the platform in April 2007. The Forum invited GIE to present the results to the next Forum in October/November.
9. The Forum re-called the role of governments and regulators in effectively implementing the provisions of Regulation 1775/2005. The Forum regrets the fact that the requirements of the Regulation are not met in all countries and urged the responsible parties to implement the provisions of the Regulation without delay. The Commission recalled that governments need to notify the rules laid down on penalties applicable to the infringements of the provisions of Regulation 1775/2005. The Commission further indicated that it will consider launching infringements procedures by the end of the year in case of insufficient improvement in compliance.

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

10. The Forum welcomed the draft explanatory note on transparency as a good basis to ensure effective and consistent application of the Regulation in the internal gas market.
11. The Forum stressed the key role of transparency in guaranteeing non-discriminatory access to the networks, and agreed that the principles of transparency should apply to all aspects of the Regulation. The Commission stated that transparency issues in other articles of the Regulation are dealt with in specific explanatory notes on these articles.
12. The Forum welcomed the useful discussion on general transparency issues, and agreed that the explanatory note should remain within the scope of the Regulation, and that the requirements of the guidelines are expressed more precisely in the note.
13. The Forum invited GIE to include work on availability on the web of real-time flow data in the platform mentioned in paragraph 8.
14. The Forum agreed that it would be useful for ERGEG to include the explanatory notes in their monitoring exercise.
15. Other issues raised in the discussion on the note were:
  - Inadequate transparency is detrimental to competition and therefore confidentiality can only be exceptionally used as an argument for less transparency. The Forum agreed that there should be a presumption of publication and confidentiality should only exceptionally prevail as approved by Regulators.
  - Secondary capacity trading should be taken into account when considering confidentiality.

- In case of a single energy-intensive customer at any exit point, the information on actual flows could be eligible for confidentiality.
16. The Commission invited ERGEG and stakeholders to provide their detailed comments on the revised version of the explanatory notes before April, and announced its intention to publish a final version of the explanatory note on transparency as Commission staff working document soon after that. The Commission invited stakeholders to specify whether their comments refer to the explanatory note, to the guidelines in the Annex of the Regulation or whether they constitute ideas for new legislative measures. The ideas on the latter should be communicated to the Commission by end of May at the latest.

#### IV. An Energy Policy for Europe

17. The Commission presented the proposals for an integrated climate change and energy policy. Special attention was given to the proposals regarding the internal gas market set out in the report "Prospects for the internal gas and electricity market". Following this presentation, a number of participants expressed their views, notably with respect to the further development of concrete proposals on regulatory oversight (ERGEG+), TSO cooperation (ETSO+/GTE+), unbundling and transparency. The Forum took note of other comments of stakeholders, notably on competition, market dominance, storage and LNG.
18. The Commission pointed out that concrete legislative proposals will be preceded by an Impact assessment study which will be accompanied by extensive stakeholder consultation. The Commission invited ERGEG and stakeholders to give written contributions to this consultation process. The Forum expressed its willingness to cooperate with the Commission in order to come to legislative proposals that will enhance the functioning of the internal gas market. The Commission urges stakeholders not to wait the outcome of new legislative measures to improve the functioning of the internal market but make use of already existing tools in the framework of the Madrid Forum.

#### V. Gas Regional Initiatives

19. ERGEG presented a report on the status and progress achieved in the GRI accompanied by a closer view on the North/North West Region which was welcomed by the Forum.
20. The Forum re-confirmed its support to the Gas Regional Initiative as a useful interim stepping stone towards a fully integrated, well functioning market. The Forum expressed the need for the GRI to lead to practical results this year notably on allocation and increase of available capacity in the European network. The Forum invited the GRI to put special emphasis on effective progress that could also be addressed in other Regions and/or the Madrid Forum.
21. Stakeholders welcomed the scope of the GRI addressing specific regional topics but identified the need to avoid duplications with work undertaken on European level, to have strong involvement of the Commission and to have political support from Member States.
22. Against the background of the existing differences between the Regions both in terms of progress and priorities, the Forum underlined the importance of ensuring coherent development of the internal market for gas. The Forum requested thorough coordination and streamlining of progress in the Regions with a view to counter the risk of market

splitting potentially resulting from the development of deviating rules in the Regions. The Forum welcomed the idea of ERGEG to present a coherence report to the next Forum. Where differences between regions should evolve either in terms of progress or approaches chosen, the Forum asked ERGEG to provide appropriate justification.

23. The Forum invited ERGEG to report on the basis of measurable criteria with a view to present objectively achieved results.

## VI. Interoperability

24. The Commission presented the results and conclusions of the study on Interoperability, as well as the mandate that was issued to CEN to draw up a standard for gas quality, which was based on the analysis in the Interoperability project. GIE presented a preview of the public database which contains the Interoperability data.
25. The Forum supported the work done on Interoperability by the Commission and GIE in the last year. GIE stated that it will go online with the public database by end of 2007 and present an update at the next Forum.
26. Concerning gas quality, the Forum underlined the conclusion of the Commission that a solution should be found on a European level including the whole gas chain. Therefore the Forum supports the mandate that was sent to CEN on 16 January 2007 to define a European standard in the field of gas quality and urged all participants to communicate this support to the National Standardisation Bodies and encourage them to accept the mandate before the 13 March 2007 deadline.
27. Concerning the other topics, the Forum agreed that more harmonisation is needed and that efforts have to increase to implement the Common Business Practices (CBPs) defined by EASEE-gas. The Forum agreed that solutions should be found to the implementation problems, and that the industry itself is best-placed to define these solutions.
28. The Forum invited EASEE-gas to work on improvement of CBP implementation, in consultation with the Commission and ERGEG. The Forum welcomed the ongoing work of GIE and EASEE-gas in the field of interoperability and asked them to report on implementation of the CBPs at the next Madrid Forum. EASEE-gas will also give a first analysis on other problems related to interoperability. In this context the Forum invited GIE to develop an implementation plan for the most important CBPs in order to ensure compliance and also identifying its limits in implementing the CBPs due to responsibilities of Governments, Regulators and other stakeholders including non-EU TSOs and gas suppliers. The Forum invited EASEE-gas and GIE to report on progress to the next Forum.
29. The Forum welcomed the announcement of ERGEG to present recommendations on regulatory treatment of conversion facilities to the next Forum.

## VII. Guidelines for Good Practice for Open Season

30. ERGEG presented their draft Guidelines for Good Practice (GGP) for Open Season Procedures, which had been published on 7 December 2006 for public consultation. The draft GGP were published following the discussion in the 11<sup>th</sup> Madrid Forum regarding the draft explanatory notes of the Commission on capacity allocation and congestion

management. The consultation process was closed on 19 January, and ERGEG gave a brief overview of the main issues addressed in the responses received.

31. The Forum thanked ERGEG for the draft GGP and invited ERGEG to finalise the GGP for open season in close cooperation with the Commission and stakeholders. ERGEG will invite all stakeholders concerned for a meeting in March 2007 in order to discuss outstanding issues with regard to the draft GGP.
32. Participants to the Forum raised a number of issues regarding the draft GGP on open seasons, which the Forum invited ERGEG to reflect on before publishing their final version. The issues included:
  - An open season is a useful instrument to assess the market demand for market capacity, but not the only one. There is a need to distinguish between capacity allocation and the market evaluation function of an open season. Open seasons must take into account specific capacity allocation mechanisms and give consideration to short term capacity bookings.
  - The appropriateness of an open season procedure for all capacity expansions, particular considering the size of the project and the relation to article 22 procedures.
  - The need for increased coordination between TSOs regarding cross-border and cross-TSO investments and projects (to establish a unique interface).
  - The need for regulatory cooperation and coordination regarding cross border projects and for good coordination between regulators and TSOs.
33. The Forum agreed that it would be useful for ERGEG to include the finalised version of the guidelines for good practice for open season in their monitoring exercise.

#### VIII. Guidelines for Good Practice for Balancing

34. ERGEG presented the final version of the GGP on gas balancing which aims to provide detailed guidance to both TSOs and Regulators on the design of gas balancing mechanisms. The final guidelines were published on 15 December 2006.
35. The Forum welcomed the final version of the voluntary guidelines, which will also serve as ERGEG's formal advice to the Commission on the interpretation of the relevant provisions in article 7 of the Regulation.
36. The Forum stressed the importance of harmonisation of balancing regimes for the further integration of the internal market for gas. The Forum called on regulators and GTE to build on the GGP on gas balancing in streamlining the balancing regimes, in close cooperation with network users.
37. The Forum agreed that it would be useful for ERGEG to include the finalised version of the guidelines for good practice for balancing in their monitoring exercise, with a view to achieve a consistent and converging application through a market based approach.