

**PART IV**

**CROSS – BORDER TRADE**

**Vienna, 10 - 11 April 2008**

**ENERGY COMMUNITY SECRETARIAT**

### Free movement of energy

- Provided for in Article 41 of the Treaty and one of the main objectives of the Directives
- Discrimination and restrictions prohibited unless justified and proportionate
- This includes
  - Import and export monopolies
  - Priority access to capacity
  - Any provision in national law/administrative practice making imports and export of energy more burdensome than supply of domestic energy
- Conclusion: Restrictions on cross-border trade in energy must be backed up by concrete justification grounds and may not go beyond what is suitable and necessary

### Acquis communautaire in energy

- **Directive 2003/54/EC** concerning common rules for the internal market in electricity
- **Directive 2003/55/EC** concerning common rules for the internal market in natural gas
- **Regulation 1228/2003/EC** on conditions for access to the network for cross-border exchanges in electricity
- **Regulation 1775/2005/EC** on conditions for access to the natural gas transmission networks (*extended Acquis to be implemented by end 2008*)

Aiming to:

- **Create a regional integrated energy market based on common regulatory framework**
- **Enhance the security of supply of a single regulatory space**
- **Develop competition and intensify trade**
- **Provide the right signal for investments in generation, transmission and cross-border capacities**

## REGULATION (EC) 1775/2005

- Equivalent to the Regulation 1228/2003/EC for electricity
- The Ministerial Council Decision – part of the Treaty Acquis, **in force until the end of 2008** (a year before Security of Supply directives)
- Crucial for cross-border trade, for efficient functioning of the gas market
- In force **before** any of the regional projects would be done – clear, equal rules for all players before the “game” starts
- Some of provisions have been already included in Dir 55 (unbundled TSO, TPA, tariffs, balancing rules)
- Same principle as for Dir 55 – Road Maps/Monitoring/Technical assistance

## Regulation (EC) 1228/2003

- **INTER-TSO COMPENSATION (ITC)** – Article 3
- **TRANSMISSION TARIFICATION (TT)** – Article 4
- **CONGESTION MANAGEMENT (CM)** – Article 6, Guidelines § 2
  - **Transparency** – Article 5 and 10, Guidelines § 4 and 5
  - **Use of congestion income** - Article 6, Guidelines § 6
  - **New interconnectors** – Article 7
  - **Coordination** - Article 9, Guidelines § 3
  - **Penalties** – Article 12
  - **Public Service Obligation** – Article 6

### Inter-TSO Compensation (ITC)

- Compensation for affected TSOs due to hosting transits
- To cover infrastructure and network losses costs
- Costs covered by TSOs that created the transits (from origin to end)
- Voluntary scheme

#### Key findings

✓ **ITC AGREEMENT for 2008/2009 signed on 12 October 2007**

? **Implementation of the market rules still pending in many of the CP**

### Charges for access to the network (Art. 4)

#### ▪ HARMONISATION OF TRANSMISSION TARIFICATION SYSTEMS

- Transparent, for the need of security supply
- Cost reflective, include operational and capital costs of the transmission activity
- Structurally relative comparable schemes and components
- Entry-exit tariffs and not distance based
- Non-discriminatory applied to network users

Some transmission tariffs could include cost of ancillary services but not stranded costs

ITC cost/revenues have to be taken into consideration

#### Key findings

✓ **Most of tariffication regulation for access to networks exists**

✓ **Some CPs set the tariff values**

? **Cost reflectivity**

? **Need for harmonisation at regional level**

### Congestion Management (Art. 6, § 2)

- **Market oriented to create a level playing field**
- **Non-discriminatory methodologies to provide effective access to networks**
  - Detailed principles:
    - Only implicit or explicit auctions, also continuous intra-day trading allowed
    - Capacity allocation based on common allocation procedures of TSOs
    - Long and short term horizons
    - Firm transmission rights subject to UIOLI or UIOSI principle
    - No reserve prices other than for new interconnectors
    - Capacity freely tradable on the secondary market
    - Unused capacity must be reallocated
    - No transaction based distinction allowed
    - Compliance with network security standards
    - Highest value bids wins
- NTC/ATC method (common explicit and implicit auctions) currently applied in Europe
- Flow-based capacity allocation – Dry-Run CAT project in SEE - promising potential benefits

#### Key findings

- ? **Many of CPs have weak compliance with Congestion Management principles**
- ✓ **Implementation of CAO on flow-based method is ongoing**
- ✓ **On short term, the focus should be the implementation of coordinated explicit auctions**

### Transparency (Art. 5 and 10, § 4 and 5)

- **KEY DRIVER FOR THE IMPLEMENTATION OF AN OPEN ELECTRICITY MARKET**
  - **CAPACITY ALLOCATION METHODOLOGIES**  
(methods, procedures, ATC calculation, access rules and eligibility criteria)
  - **CAPACITY ALLOCATION INFORMATION**  
(volumes and auction prices, as soon as possible after allocation)
  - **CAPACITY USE INFORMATION**  
(total nominated flows, description of TSOs actions, actual net physical flows)
  - **ADDITIONAL REQUESTED INFORMATION**  
(nomination procedure sufficient in advance; forecasted ATC values Y,M,D,ID; AAC; readily accessible )

#### Key findings

- ? **Some information are published on TSOs web-pages**
- ? **Not all the published information is available in English**
- ✓ **Full compliance needed to not create market asymmetries in information**

### Use of congestion income (Art. 9, § 3)

The revenues from the allocation of interconnection capacities have to be use for one or more purposes:

- guaranteeing the actual availability of the allocated capacity
- network investment maintaining or increasing interconnection capacities
- as an income to be taken into account by regulatory authorities when approving the methodology for calculating network tariffs, and/or in assessing whether tariffs should be modified

#### Key findings

- ? **Not all CPs define the use of congestion income**
- ✓ **Common procedure will guaranty the investment into new infrastructure**
- ✓ **Shall be preferably assigned to projects to relief cross-border congestion**

### New Interconnectors (Art. 7)

- Exemption from the Regulation and Directive provisions for new interconnectors
- Is given by the Regulatory Authority
- Addressing costs, risks and return of the investments in new interconnectors
- The Regulatory Authority shall notify the decision of exemption (reason, financial analysis and effect on competition, timeframe, results of the consultation)
- **European level** - **Target of 10% electricity interconnection capacity**
  - **priority projects financed through TEN Fund**

#### Key findings

? **Not explicitly addressed in the Electricity or Market Acts**

? **Provisions in the primary legislation (authorisation and operations)**

✓ **Project based level (Memorandum of Understanding)**

### Coordination (Art. 9, § 3)

#### ▪ HARMONISATION AND COMPATIBILITY

- common transmission model, including standardisation of contracts
- dealing efficiently with physical loop-flows
- identical obligation for nomination, timeframes, closing times, products, contractual framework
- verification of flows to comply with network security
- harmonization of accounting and settlement
- exchange of information between TSOs

#### Key findings

? **Some CPs do not have provisions in their primary legislation**

✓ **High level of coordination is achieved through the common network model for capacity calculation**

## Penalties (Art. 12)

- **RULES ON PENALTIES FOR INFRINGEMENTS OF THE REGULATION' PROVISIONS IN THE LEGISLATION**

– **Primary legislation (Electricity Acts or Market Rules)**

### Key findings

- ? **Most of Contracting Parties do not have provisions in their legislation**
  - **Need to include and enforce these provisions to fully comply**

## Public Service Obligations (non-compliance with Art. 6)

- MARKET BASED METHODS FOR CAPACITY ALLOCATION
- PRIORITY FOR SUPPLIERS WITH PUBLIC SERVICE OBLIGATION IS NOT COMPLIANT
- PROTECTION OF VULNERABLE CUSTOMERS ADDRESSED THROUGH SOCIAL PLATFORM

### Key findings

- ? Most of CPs do not comply
- ? PSO is used as an excuse to not fully open the access to the cross-border lines
- ? Appointment of supplier of last resort is pending
- ✓ Social support schemes are in process to be implemented by many CPs

## Conclusions and Recommendations

- **Notably progress has been achieved with the signing of ITC voluntary agreement for 2007 and 2008/2009**
  - **Cross-border trade volumes are still very weak due to a less developed market**
  - **Most of the principles of congestion management are not implemented**
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- **Implementation of coordinated explicit auctions would be a possible way to reach harmonisation in the region on short-term**
  - **Implementation of the Coordinated Auction Office on flow-based method seems to be the best solution on long-term**
  - **Cooperation and coordination at regional level is crucial**
  - **Harmonised approach for Market Rules and Procedures for cross-border capacity allocation**
  - **To increase compliance it seems to be necessary to apply a similar approach used within ETSOVISTA - common allocation procedure and real-time information**

## **ERGEG Documents**

### **Compliance with Regulation 1228/2003 and Congestion Management Guidelines - Criteria for Compliance**

**Ref: E07-EFG-25-03**

**10 December 2007**

[http://www.energy-regulators.eu/portal/page/portal/EER\\_HOME/EER\\_PUBLICATIONS/CEER\\_ERGEG\\_PAPERS/2007/Reports/E07-EFG-25-03\\_CriteriaForCompliance\\_10-Dec-2007\\_0.pdf](http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/2007/Reports/E07-EFG-25-03_CriteriaForCompliance_10-Dec-2007_0.pdf)

<http://www.ergreg.org>

**THANK YOU FOR YOUR ATTENTION!**

**ENERGY COMMUNITY SECRETARIAT**  
**Am Hof 4, 1010 Vienna**  
**[www. energy-community.org](http://www.energy-community.org)**