A new role for the Agency

Dennis Hesseling, Head of Gas Department

4th Vienna Forum on EU Energy Law
Wien, April 15 2016
Overview

- Current role of the Agency
- Future role of the Agency
ACER’s role – A widening mission

Third Energy package

Regulation on Wholesale Energy Market Integrity and Transparency (REMIT)

Regulation on guidelines for trans-European energy infrastructure (TEN-E)
Priority areas defined by the European Commission

Framework Guidelines / Network Codes process

EC invites ACER to develop FG

EC reviews FG and invites ENTSO to develop NC

ENTSO submits the NC to ACER for evaluation

ACER provides an opinion and recommends NC to EC for adoption

Scoping  FG  NC  EV  Comitology

6 months  12 months  3m

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Overview Gas Network Codes and Guidelines

Draft NC on Harmonised Tariff Structures
- Promotes cost-reflective tariffs to avoid discrimination between cross-border and domestic users and allows for appropriate reconciliation of TSO revenues

Start date: Q3/2012
EC takes over: Q4/2015
Exp. publication: Q4/2016-Q1/2017
Exp. application: Q1/2018

NC on Interoperability and Data Exchange Rules
- Requires operational, technical, business communications under standardised formats

Start date: Q1/2012
EC takes over: Q4/2013
Published: Q2/2015
Applicable: 1/05/2016

NC on Balancing
- Allows network users to take out less/more gas than they have injected into the system and balance their positions, previously an exclusive TSO activity

Start date: Q2/2011
EC takes over: Q1/2013
Published: Q1/2014
Applicable: 1/10/2015

NC on Capacity Allocation Mechanisms
- Promotes and defines harmonised capacity allocation mechanisms via auctions, standardised bundled cross-border capacity products at interconnection points

Start date: Q1/2011
EC takes over: Q4/2012
Published: Q4/2013
Applicable: 1/11/2015

Commission Guidelines on Congestion Management Procedures
- Promotes better use of interconnection capacity through an improved handling of contractual congestion

Start date: Under ERGEG
EC takes over: Q3/2011
Published: Q3/2012
Applicable: Q3/2012

Timeline: Q1/2011-Q1/2018
As a result, MSs supply sourcing costs are further converging, although some differences persist leading to welfare losses.

**2014 calculated gas sourcing cost* compared to TTF (= 23.7 €/MWh)**

*Suppliers’ sourcing costs take into account both border import and diverse hub product prices. A weighted average of monthly sourcing costs and demand is performed to obtain the yearly figure.

Source: ACER estimates based on NRA input, Eurostat Comext, BAFA, Platts.
The Ukrainian market is getting more integrated into the EU gas market

Ukraine gas imports (bcm/month) and estimated Ukrainian gas import prices - €/MWh

Source: Volumes from ENTSOG TP, Ukrtransgaz and IEA. Import prices: ACER estimates based on Naftogaz, EnergyPost.eu and ICIS Heren.
Gas Interconnector Poland Lithuania

- 530 km pipeline with initial capacity 2.4 bcm/y, cost €558 m, net benefits €830 m
- Aimed at ending isolation of Baltic Member States from EU gas market and at diversifying gas supply

Process

- 1 May 2014: no NRA decision within 6 months deadline, investment request referred to ACER
- May - July: consultations with NRAs and project promoters
- 11 August: Decision No 01/2014 adopted and notified to parties concerned. Decision published on 29 August
Assessment
- Admissibility, completeness and maturity
- Costs and benefits by Member State

Cross-Border Cost Allocation
(ACER Recommendation No 07/2013 of 25 September 2013)

<table>
<thead>
<tr>
<th>Payer TSO</th>
<th>Recipient TSO</th>
<th>Compensation Payment (€m)</th>
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<tbody>
<tr>
<td>AB Amber Grid (LT)</td>
<td>Gaz-System S.A. (PL)</td>
<td>54.9 (64.0%)</td>
</tr>
<tr>
<td>JSC Latvijas Gāze (LV)</td>
<td>Gaz-System S.A. (PL)</td>
<td>29.4 (34.3%)</td>
</tr>
<tr>
<td>AS EG Vorguteenus (EE)</td>
<td>Gaz-System S.A. (PL)</td>
<td>1.5 (1.7%)</td>
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<tr>
<td><strong>Total Compensation</strong></td>
<td></td>
<td><strong>85.8 (100%)</strong></td>
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- Compensation payable upon project commissioning
● Current role of the Agency

● Future role of the Agency
European Commission Vice President Šefčovič on the Energy Union

‘Significant strengthening of the powers and independence of ACER’
ACER currently acts primarily through recommendations and opinions. It has very limited decision-making rights..

EU-wide regulation of the single market should be strengthened, through a significant reinforcement of the powers and independence of ACER to carry out regulatory functions at the European level in order to enable it to effectively oversee the development of the internal energy market and the related market rules as well as to deal with all cross-border issues.....
The New Energy Market Design

Communication from the Commission launching the public consultation process on a new energy market design

Brussels, 15.7.2015
COM(2015) 340 final

- In line with the increased cooperation of system operators, the powers and independence of ACER may need to be reinforced so that it is able to carry out regulatory functions at European level where needed. ACER could then arbitrate in regional and EU level disputes...

- Could include power to adopt directly applicable and binding decisions on EU-level initiatives and cross-border issues and introduction of enforcement powers to ensure compliance with such decisions....
An increasingly integrated EU market requires an appropriate dynamic regulatory framework and cooperation arrangements.

**Key Conclusions in the “Bridge to 2025” (September 2014)**

*In line with the Energy Union strategy*

- **Customers and all stakeholders** central and must be engaged.
- Consumers involved in providing flexibility.
- **ACER likely to have an increasing role in a more integrated EU energy market**
- **Appropriate regulatory oversight will be needed**
  - ENTSOs’ evolving role and New bodies created
  - Clear role and rules for DSOs
- **IEM open to neighbouring countries**
  - Building regulatory capacity along IEM principles

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Specific proposals on ACER’s future role

Oversight of ENTSOs and other Bodies

- Increasingly important role of ENTSOs
- Effective oversight by ACER of the ENTSOs and of other bodies with critical/monopoly IEM functions
- ACER to be able to issue binding decisions

Stronger NRAs Coordination

- ACER to replace “all NRAs” in taking CACM 3rd-level decisions
- Mechanisms to further enhance cooperation and coordination among NRAs
- ACER to be allowed to issue “own-initiative”:
  - “Peer review” Opinions
  - Recommendations for Good Practices
  - Opinions on the application of Guidelines

Monitoring of Markets

- ACER to be given powers to require information from all EU energy-sector entities when needed for monitoring
## A strengthened role for the ENTSOs

**ENTSOs role strengthened to act in the interest of the Union; subject to robust governance and effective regulatory oversight**

Regional Security Coordinators (RSCs) key part of the future power market; a roadmap for the geographical scope of RSCs to be defined; the role of RSCs enhanced and clearer

**Effective regulatory oversight at regional level**

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<th>ENTSOs to operate in the Union’s interest, distinct from the interests of TSOs</th>
<th>Stronger ENTSOs statutory and financial independence from member TSOs, direct funding</th>
<th>ENTSOs power to request necessary assistance from TSOs (e.g. info)</th>
<th>ENTSOs to adopt robust decision-making rules</th>
<th>ACER powers to issue binding decisions to ENTSOs and sanctions for non-compliance with ACER decisions or with ENTSOs tasks</th>
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Governance of power exchanges is important. NEMOs must cooperate within a formal framework; under regulatory oversight; take coordinated decisions according to transparent rules.

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<th><strong>Require NEMOs to establish a common body to cooperate</strong></th>
<th><strong>Establish clear general rules for the NEMOs’ coordinated decision making and for implementation</strong></th>
<th><strong>Effective regulatory oversight of the common NEMO body and ACER powers to issue binding decisions, and impose sanctions for non-compliance with ACER decisions or with NEMO tasks</strong></th>
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Similar governance and regulatory issues may emerge in the case of Gas Booking Platforms.
Thank you for your attention

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