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Response to ACER/CEER's Public Consultation "European Energy Regulation: A Bridge to 2025"

1. Have we identified correctly the issues and trends within each area of the energy sector?

Eurogas considers that the latest version of the Bridge is a fair and balanced assessment of the challenges facing the gas market in the next years, and reflects the preceding debates.

Eurogas agrees that significant issues are the further development of the internal gas market, at a time when there are so many uncertainties about demand and supply, and also the adverse trends making difficult use of gas in power generation. Infrastructure investment is also a major issue to be addressed, as it is central to market development and security of supply. The Bridge should also address the need for an even and timely implementation of the market rules, to reduce remaining market barriers and uncertainties. Eurogas recognises that many issues overlap with major policy issues outwith regulatory ambit, but ACER/CEER's input is important.

Finally, Eurogas agrees that the mapping of dynamic developments in the wholesale gas market is becoming clearer, and attention to the retail market is necessary to make sure that it functions efficiently to meet customer needs.

Before elaborating on some of these issues, Eurogas would like to note three high level comments.

- there should be more emphasis on the ways robust, well regulated markets deliver security of supply. Policy is turning its attention to this issue in the short as well as medium to longer term, and the Bridge should envisage a clear framework, relevant to efficient market signals, infrastructure investment, and deep liquid markets to attract supplies to Europe;
- Eurogas agrees that an important aspect of the gas market is to provide flexibility for electricity system security, and the Bridge should address this issue. A wider aim, however, should be to integrate the gas and electricity markets in a way which delivers a sustainable energy system along the value chain to consumers. This theme, latent in issues including infrastructure and retail, should be more fully explored.
- The role of associated innovative technologies and the implications of their entry into use coupled with strategic thinking necessary to enhance value in the energy chain could also be addressed in more depth.

Below are more detailed remarks.

ELECTRICITY WHOLESALE MARKETS

The Bridge refers to the huge uncertainties in the gas market, and also acknowledges that there are significant issues to be sorted out in the electricity market, that currently is trapped in a vicious circle. The economics of thermal power production have been shaken up by a convergence of factors which have seriously undermined the market, such as heavily subsidised

electricity from intermittent renewables, low carbon prices, lower demand and cheap coal from the US. Approaches to improve the situation have to come mainly from policy changes* but a well-functioning cross-border market is a prerequisite. ACER is right to consider how the markets can make the provision of flexible capacity easier, also in the interests of power supply security. Gas-fired power plants are well-placed to offer quick response back-up functions, and the current difficulties of this sector are arguably jeopardising the future achievement of climate policy objectives.

Eurogas supports the need for impact assessments of the regulatory interventions in the electricity market such as the introduction of capacity remuneration mechanisms to ease the current situation where capacity essential to the delivery of EU policy objectives is not fairly remunerated to the gas market and gas-fired plant operators.

GAS WHOLESALE MARKETS

Integrating gas wholesale markets

Eurogas welcomes the emphasis on completing the framework for the internal energy market. Plans stemming from the Bridge should not distract from this core activity of ensuring sound implementation of current legislation. In terms of timing, action such as the timely and full implementation of network codes remains essential, in order to bring markets closer together and facilitate market-driven integration e.g. further improvement in terms of cross-border co-operation among TSOs. Actions need in the first place to be taken in some regions to improve the situation, and by 2025, the objective has to be a functioning, liquid pan-European gas market. The steps to achieve more integrated markets are set out in our annexed input to the Gas Target Model.

Uncertain gas demand and supply

Eurogas mainly agrees with the analysis of uncertainties surrounding the level of the EU gas demand as described by ACER. There are widely differing views on future demand, adding to the challenges of taking a view on future outcomes. The latest Eurogas Long-term Outlook for gas to 2035¹ illustrates indeed the position of our experts that gas demand is currently very vulnerable especially when it relates to the future of gas used for generating electricity.

The future of gas use in the industrial sector will depend on overall economic conditions and on the price competitiveness and attractiveness of gas compared with other fuels that can replace gas in industrial processes. In the view of Eurogas gas demand in industry is unlikely to decline significantly.

Eurogas argues that gas will continue to provide EU households with flexible, affordable, sustainable and secure heating systems. Thanks to the infrastructure in place and the further penetration of condensing boilers, coupled with the development of the most efficient appliances such as micro CHP and heat pumps, gas will remain a fuel of choice for heating together with biogas and renewable gas from RES-E surplus. More recognition of the key role of gas in the heating sector would be welcome in order to stimulate highly efficient appliances.

* See Eurogas 10-point plan

¹ http://www.eurogas.org/uploads/media/Eurogas_Brochure_Long-Term_Outlook_for_gas_to_2035.pdf

Eurogas welcomes the reference made to the growing potential role of gas in transport which, in our view, is the only real alternative to oil available today. While the potential of gas in its liquefied form in maritime and road freight transport is significant, Eurogas also holds the view that compressed natural gas (CNG) vehicles should become the recommended urban fuel for passenger cars, light duty vehicles, urban buses and refuse trucks. The use of alternative passenger car fuels, natural gas, also biogas and hydrogen, could be promoted by extending physical supply infrastructure and harmonising the necessary regulation. These developments, however, require further policy support, fostering investment in infrastructure, at least until a certain market share of NGVs has been reached.

On the supply side, Eurogas thinks that in the current context, measures should be taken to maximise gas production and recovery from indigenous sources in a cost-efficient way. It will be necessary to find ways to inform public perception in a positive direction of the issues surrounding unconventional gas produced in accordance with high environmental standards. Support should also be given to the development of new technologies, to encourage research in biogas and power to gas production, distribution and final use.

Reduced import dependency should not be an aim in itself. This would be to ignore the advantages offered by international trade, and perhaps be detrimental to energy price levels and security of supply.

The European gas industry advocates the importance of fostering long-term relationships with major suppliers, transit countries and key EU partners. Individual companies remain responsible for conducting commercial relations with producing and transit countries while institutional dialogue is essential to building a framework for increased co-operation on the diverse issues, leading to better understandings between the EU and the countries concerned.

The gas market's role in providing flexibility

As mentioned above, Eurogas endorses the value of exploring this, but it makes sense to wait until the codes and rules are in place, before evaluating what more may be needed.

The infrastructure of the gas industry supports intermittent demand. However, this can only work efficiently when providers of this flexibility receive a market price that covers their costs. Therefore there should not be rules in the gas market which prevent generators from maximising this flexibility, unless these are in some way justified. Regulatory actions should avoid restrictions on gas plant offers and, where restrictive practices apply to the gas market, should aim at removing these restrictions. For example are there any re-nomination lead-times on the gas system which are not justified from a technical point of view, yet limit the offering of flexible generation from power stations? Any measures would need a careful consideration of the TSO's capability within each system, as this is likely to vary across different systems.

INFRASTRUCTURE INVESTMENT

Eurogas agrees with the prominence given to the infrastructure issue, and the analysis of the challenges. Eurogas considers that the most efficient investment should be market-driven, but recognises the regulatory responsibility to consult societal interests including security of supply, an aspect that in the shorter term looks to become more accentuated. Completion of sufficient

cross-border interconnection capacity across Europe is also crucial to facilitate the co-ordination of countries in case of supply disruptions.

CONSUMERS, RETAIL MARKETS AND THE ROLE OF DSOs

Eurogas supports a customer-centric approach. Potential technological developments will drive further change in the retail market, expanding technical and commercial opportunities for customers who want to participate in the market, to do so. How fast the pace of development will be, and what proportion and categories of customers will seek to take up these new opportunities is difficult to gauge in advance, but within ten years we should see some impact of smart systems and meters although there are differences between the roles and functions of electricity and gas smart meters. The Bridge should address the considerations from the perspective of market developments and customer interests. Although there are differences between electricity and gas in the sort of smart services they can offer, an holistic approach using the benefits gas offers to the system as a whole should be the way forward. Smart energy and smart grid services should not only be seen as linked with electricity.

This evolving market design is involving new players like aggregators, and in the same time scale of the Bridge the possibilities of more active system management by DSOs will be a relevant consideration, how to empower the DSOs to take a positive role in facilitating competitive markets and improving network efficiency, maintaining the neutrality of their role. DSOs should continue the role of neutral market facilitator.

Expansion of gas grids on a cost-efficient basis, makes it possible for customers to benefit from the advantages of natural gas (economic, reliable, and clean). Today, however, many DSOs face challenges in making new connections. Positive policy messages on gas use will help to incentivise expansion of the grids.

2. Have we identified an appropriate regulatory response?

ELECTRICITY WHOLESALE MARKETS

Intervention in electricity markets

Eurogas supports the need to remove and avoid future market distortions within the European energy market.

Among other considerations, Eurogas envisages a market for renewables being developed with R&D mainly dedicated to non-deployed renewables technologies.

Capacity remuneration mechanisms may be needed in markets in which the appropriate signals for securing firm and reliable capacity to cover system needs is not delivered by the market. Their sole objective should be to remunerate operators for keeping capacity available so that demand can be covered at any time.

Flexibility should be adequately rewarded by the spot and balancing market, but if this is not the case, the design for measures to ensure generation adequacy should also consider the flexibility needs of the system.

GAS WHOLESALE MARKETS

A flexible framework for a liquid pan-European gas market and achieving liquid Markets

Eurogas shares the aspiration of increased market integration and achieving liquid markets. These, however, should not be forced or introduced prematurely. That might be neither cost-effective, nor offer an efficient market response. Eurogas welcomes the emphases on the full and effective implementation of existing network codes and well-founded planned codes, their development based on in-depth analyses identifying critical issues still needing to be tackled. Such action should result in removal of remaining market barriers, and more consistent development of competition across Europe.

If long-term obstacles are identified that are unlikely to be solved by the work in hand or planned, these should be addressed. The case by case approach where necessary to achieving more liquid markets is right, and this overall pragmatic approach will also allow for meeting the uncertain gas supply and demand. Particular problems should be identified and tackled on a targeted basis, developing solutions regionally. There should be room for flexibility in responses. Market-driven development of liquidity in the NW GRI may offer best practices for other regions, provided that the provisions of the Third Package are properly implemented. Eurogas sets out in the Annex its views on improving market integration.

Eurogas has also taken note of ACER's recent thinking on GRIs. There is scope for bringing this thinking more clearly into the Bridge, especially with regard to the role GRIs play in realising practical co-operation. Early and proper implementation of the Codes can be successfully implemented, accelerating progress to a more liquid market. ACER has a role in promoting greater co-operation among regulators, and GRI work can help to realise this in practical ways.

Uncertain gas supply and demand

Eurogas welcomes here too the emphasis on flexible targeted solutions and the attention given to the risks of increasing stranded costs for the gas infrastructures. Further reduced operating hours of conventional power plants in the future could also impact on the profitability of gas infrastructures necessary for the delivery of fuel to the power plants at peak times. The increase in grid costs could be damaging to the competitiveness of natural gas.

Providing flexibility through gas

Eurogas also supports finding ways to enhance flexible, back-up of gas-fired power generation for intermittent RES. More granular information should be an objective. TSOs should offer more specific products, but the introduction of tailored measures to provide gas-fired power generation with flexibility has to be assessed, on the basis of cost-benefit analyses of the impact on the wider market and the need to avoid discriminatory approaches affecting other end-user categories.

Other points

Eurogas notes the unexplained reference to regional governance arrangements. It should be clarified what is envisaged. Working on a voluntary basis through improved GRIs should be the aim.

INFRASTRUCTURE DEVELOPMENT

Eurogas can support the further work planned to improve regulatory co-ordination on projects. This is a necessary adjunct to TSO co-operation and should be facilitated by an adequately stable and predictable regulatory environment. Furthermore, a policy framework conducive to increasing the role of gas in the energy mix will send needed signals for investment. Eurogas is interested by ACER's remarks on an output-based approach, but would like to know more about what is entailed in order to determine its position.

CONSUMERS, RETAIL MARKETS AND THE ROLE OF DSOs

An appropriate framework for energy customers

The work of ACER should complement the policy decisions on the retail markets and also the ongoing work on smart systems. ACER's market monitoring responsibilities should help to identify when effective competition is taking place, and when it is not. Market driven progress should be achieved. Spread of good practices and actions to implement CEER/BEUC's 2020 Customer Vision will also bring added-value. Where further regulatory actions are envisaged they should be subject to rigorous cost-benefit analysis. Eurogas agrees on the benefits of making dual fuel switches easier. Any proposal, however, to reduce the switching period across Europe to 24 hours by 2025 would require in depth analysis. Switching is a complex process (more complex than for telecommunications). Contractual and technical considerations need to be taken into account. If such a target is eventually adopted, it should remain an indicative, non-binding target, to allow for progressive adaption of systems and procedures. Costs considerations have to be taken into account.

Eurogas endorses the importance of transparency. It is in companies' interests that consumers can make informal market choices, and that there is a level playing field for suppliers. Eurogas cautions, however, that this should not lead to a standardisation of products and services, or overregulation stifling innovation and competition.

Removing barriers in Europe's retail markets

Eurogas agrees this should be a longer-term objective. Any framework ideas to be further developed should aim at enhancing opportunities for customers and suppliers to benefit on a cost-efficient basis for this next stage.

Enabling demand response

As mentioned, Eurogas supports the continuation of the role of DSOs as neutral market facilitators and within Eurogas there is a strong view that this will not change. In the interests of efficient grid management notably (for electricity) avoiding congestion some contact with customers may be appropriate, but DSOs should not have a role in commercial deployment of aggregated products. The roles of all market players have to be clear, and organised to deliver benefits to customers. With regard to unbundling, the requirements in the Gas Directive should be met with continued assessment and enforcement of existing rules. At present Eurogas does not see the role of the gas DSO changing in such a way as to require changes to the unbundling rules. If, however, the role of DSOs evolves away from that of neutral market facilitator, further thought may have to be given. A one-size fits all approach may not in any case be the way

forward, providing customer interests are met in a competitive market. Any further framework measures should be conditional on thorough cost-benefit studies.

Customers will have different needs and varying levels of interest in participating in the energy market. Some will want to be very active others less so. Moreover, as Eurogas has stated on many occasions, the role and functions of gas meters differ from those of electricity meters, and as is widely recognised, demand side management mainly concerns electricity. The gas DSOs will not have the same role, and so conclusions on demand response should differentiate between the two sectors, while still striving to recognise their complementary potential in meeting customers' needs.

ACER raises the question of the *de minimis* rule. Where an exemption is applied to Article 26 of the Directive 2009/73/EC, several other Articles in the directive still apply to all DSOs, such as:

- shall not discriminate between system users;
- provide system users with their information they need for efficient access and use of the system;
- keep separate accounts for the distribution activities with a view to avoiding discrimination, cross-subsidisation and distortion of competition.

Article 26 to which the exemption applies (in cases where Member States decide so), refers to the legal form of unbundling.

Therefore even in cases where the exemption is applied, other safeguards exist which if enforced should ensure equal treatment of users. Indeed, if a DSO with such an exemption were not treating all users in the same manner, then that DSO will be in breach of the current legislation.

It is not clear what the reference in paragraph 3.35 to a DSO connected to another DSO might have on the customers. The consumer should not and does not to our knowledge face any difference in the quality of service depending on whether the network is directly connected to the transmission system or another distribution system.

Data management

The market for management of consumption data flows should be designed in the interests of customers. The purpose of collecting the data depends on the type of data and its use, which should determine how the data is managed and hence the suitability of market models. The role of the data management responsible parties should be filled according to the ability of the parties to meet effectively the needs of the market and its customers. The data management market should be non-discriminatory, and offer continuity and data security.

Other points

This proposal to assess whether additional incentives are needed to promote high risk investments is supported.

As with all investment, there are advantages and disadvantages of both output and input based regulation and the most appropriate choice of either or possibly mix of the two is likely to require case-by-case assessment. Eurogas would like to understand ACER's ideas more clearly. Achieving a cost-efficient approach and a good outcome for gas customers is paramount.

3. Which regulatory actions are most important and should be prioritised?

The most important regulatory actions are those which will improve the liquidity of the market. As such we fully support the priority for the "full and effective implementation of the requirements of the Third Packages network codes" and the emphasis on more competition in the wholesale and retail markets across the EU.

Eurogas would support a review of the governance of ACER and the processes for developing and enforcing network codes. Eurogas would support a stronger role for ACER, notably on cross-border questions. It would be useful in the Annex to distinguish between planned further analyses and research and more specific actions, envisaging already concrete outcomes.

In finalising the Bridge, although Eurogas is not looking for a 10-year work plan, it would be useful to provide a clearer time horizon on the actions/activities planned.

4. Are there other areas where we should focus?

As mentioned above, Eurogas would suggest to say something more on plans for the GRIs, to deliver more efficiently improved regional co-operation.



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