ACER

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PGNiG Capital Group's input to the ACER's public consultation on the paper: „European Energy Regulation: A Bridge to 2025" (PC_2014_O_01)

This document includes remarks of PGNiG Capital Group (further: "PGNiG CG") on the issues contained in the ACER's consultation document: "European Energy Regulation: A Bridge to 2025". The following remarks present our view in the areas of activity of PGNiG CG, namely natural gas distribution and supply and gas storage.

1. **Point 1.9 Priority questions**

Need for more emphasis on natural gas storage

We believe that the vision of the EU's future energy markets presented in the Paper would benefit from more individual approach to the role of natural gas storage. Although storage does not belong to the category of cross-border infrastructure, its role in completing the internal energy market, especially in terms of security of supply, is also of vital importance. Remarks presented in the Paper regarding transmission infrastructure may not be directly applicable to storage, therefore we would be interested in seeing some ideas that would indicate the place of natural gas storage in the 'Bridge to 2025' vision.

Balancing market and non-market based tasks of storage system operators

Storage facilities and storage system operators are vested with:

- market-making goals;
- public policy obligations in areas of security of supply and energy transition to a low emission, green economy based on renewable energy sources.

In consequence, storage system operators are called upon to provide services on a competitive basis and to apply relatively low, competitive charges to safeguard the attractiveness of gas by not increasing the charges at times of lower demand (as suggested by the Paper in Point 2.14.). On the other hand, storage system operators are expected to play a crucial role in providing security of supply, especially in case of exogenous factors such as the recent events in Ukraine (as mentioned by the Paper in Point 1.4.). Another potential challenge for storage system operators is to enable flexibility for electricity generation based on gas-fired plants. For that purpose SSO were called upon by the Paper to potentially improve access to storage, if it is needed to permit the fast response required by flexible electricity generators (Point 3.20).

Some regulatory guidance with regard to balancing the roles fulfilled by SSOs would be appreciated.

2. Point 2 Energy sector trends: C Infrastructure investment

Risk factors in infrastructure investment projects

The Paper acknowledges delays in delivering infrastructure and indicates that the causes of delays might be perceived by investors as risk factors. The causes of delay and potential risk factors include:

- opposition to the projects reflected in lengthy administrative procedures to obtain the required consents
- involvement of several different administrative bodies, especially in the case of cross-border projects.

On that point we suggest taking into account the fact that infrastructure investments are highly capital and time – consuming as well as the fact that returns on investments are extended in time. In consequence, the risks for investors identified in the Paper could also include:

- lack of appropriate incentives e.g. guarantees of appropriate returns on investments and long-run solutions,
- lack of stability e.g. due to deficiencies and instability of the current regulatory framework.

Importance of 'fair remuneration of the assets' and a related possibility of engaging in long term commitments, 'making clear the need to attract the capital resources […] via incentive regulation' have been already underlined by GIE in their responses to the Paper in December 2013 and June 2014.

Compatible investment rules and regulatory framework for local investment projects

The further part of the paragraph mentions 'the need for compatible rules and regulatory coordination' for cross-border cost allocation as a remedy to provide incentives to invest.

The Paper does not offer any remedies with regard to providing incentives in the case of investments other than those with cross-border element. We understand that cross-border infrastructure is in the spotlight of institutions such as ACER, nevertheless we suggest that a conceptual document like the Paper should also call on 'compatible rules' and consistency in a national context.

Regulatory focus

Point 2 C concludes by indicating the current regulatory trends:

- regulators' focus 'to create a regulatory framework that facilitates the delivery of efficient investment to safeguard the interests of consumers'
- regulators' focus when sharing best practice, 'on using appropriate incentives to align the interests of companies and consumers'.

In our view, the Paper could indicate that there are some further areas for extension of regulators' focus, as the capital and time consuming character of infrastructure investment, possible solutions based on long term commitments, need for better incentives and stability constitute major challenges in the process of completing the internal market for energy. The Paper could also include the remarks discussed in the detailed Discussion Paper on Energy Regulation: A Bridge to 2025: Gas of 6 November 2013 in order to give a broader picture of challenges related to infrastructure investment policy.

3. Point 2 Energy sector trends

Consumers, retail markets and the role of DSOs

Intelligent measurement system (smart meters) is an important element in the construction of intelligent networks (Smart Grids), however, the implementation of intelligent metering on the natural gas market should be preceded by the determination of the following issues:

- financing model of smart metering, both during the construction phase as well as future use, namely in which direction should local regulators proceed in order to distribute the financial burden of the construction and operation of smart metering evenly between market participants.
- mutual cooperation of the operators of electricity and gas and other matters relating to the construction of consistent and compatible systems, in order to provide the consumer with a complete, reliable and transparent information about energy consumption.

It is worth noting that the consultation document lacks detailed information identifying the mechanisms which could be used by local regulators in order to promote more effective use of energy. The application of smart metering systems alone, without creating conditions that would encourage customers to make use of these systems, will probably fail to deliver expected results, ie. increased client activity in terms of demand response and efficient energy use.

Furthermore, broader implementation of microgrids and prosumers' technologies should be preceded by a thorough assessment of the increase in network costs resulting from such projects: such projects may require DSO to create a new infrastructure or adapt the existing one,

which incurs large expenditures. Introduced technological changes should be gradual, so that they have an evolutionary rather than revolutionary nature. The assessment should also take into account different national circumstances, in particular different degree of advancement in implementing these tools in Member States.

4. Point 3 Actions for Europe's regulators

Regulatory Impacts: Gas Wholesale Markets

In the context of the EU internal gas market development, PGNiG supports the approach that the regional integration of markets is a good course of action in order to create, in a long-term perspective, a European-wide competitive market. However, we can see a number of barriers that are related primarily to the state of the currently available gas transmission infrastructure. Further development of infrastructure capacity is crucial to extend current balancing zones. Development of regional markets will improve security of supply and reduce costs associated with the fulfillment of standard of supply. Moreover, in more integrated markets the possibility for using the market-based security of gas supply measures would be improved.

We can see some scope for ACER activity in the process of revaluation of the TSO role in the field of security of supply. Excessive public service obligations related to security of supply, if vested with shippers without accompanying compensation, may distort competition. ACER should further support unification of TSOs roles and modes of operation, in particular by promoting following mechanisms:

- inter-TSO agreements to provide back-up supplies in case of emergency,
- cooperation with Electricity TSO, in order to coordinate the operation of both systems in case of emergency,
- shorter balancing periods.

We support the ACER vision that one-size-fits-all is not proper way for arrangement of a market. Regional approach to market development and more tailor-made solutions are desirable to meet various needs across different regions.

Regulatory Impacts: Infrastructure Development

In order to build an effective single market for gas in Europe, it is necessary to promote the development of new infrastructure, which will change current trading patterns and allow gas to flow in different directions, depending on the circumstances.

We see further scope for strengthening ACER's role in reviewing and determining cross-border infrastructure needs as well as in supervising the implementation of the necessary investment. We also support the view that ENTSOG should more consider the infrastructure needs at regional level, with in-depth assessment of whether the expected benefits to the region are not inhibited by the individual interests of countries or national operators. The focus should be on technical parameters of projects proposed from the regional perspective, not only on national N – 1 requirements.

In order to promote investment necessary to develop new technological solutions in distribution system, DSO should be provided with reasonable degree of certainty with respect to the potential recovery of the expenditure incurred through the distribution tariffs. Currently NRA has a large discretion in the recognition of capital expenditure.

The Paper underlines the general preference for market based signals for investment and calls for coordination on a regional and European level for cross-border projects (especially with regard to cost allocation). In the context of building up an effective regulatory framework the focus is set on possible discrimination against cross-border projects within Member States' regulatory regimes. This part of the Paper would also be appropriate to discuss the regulatory framework for investment in storage. In that context we would like to refer to the concerns presented by the GIE regarding investments that 'are not based on direct market demand (such as for security of supply, sustainability, etc.)'. GIE suggested that some projects of the nature might require some targeted support. We share the view of GIE and we suggest that this issue is properly addressed in the Paper.

In conclusion, the Paper calls for 'smart' regulation able to support and respond to technological developments. A move to an output – based approach is recommended and a need for investment reward is acknowledged.

The Paper could provide more details on the concept of 'smart' regulation. The notion seems to embrace market-based solutions ('move to output – based approach') with some elements of public policy (supportive position towards technological developments). Some guidance on balancing sometimes contradictory goals of the EU energy policy to be followed by storage system operator would be very welcomed. Examples of such contradictory objectives comprise support for technological development and care for clients' interests by not raising the grid charges (Point 2.14) or aligning the interests of companies and improved access to storage (point 3.20).

What is more, in our view, concerns about making use of existing infrastructure and investments in new infrastructure expressed in the detailed Discussion Paper on Energy Regulation: A Bridge to 2025: Gas of 6 November 2013 could also be present in the Paper.

Regulatory Impacts: Consumers, retail markets and the role of DSOs

The question of the revision of the minimum threshold of 100 000 customers as an exemption from the unbundling requirements can be important, however the suggested change in the minimum threshold (100 thousand recipients), does not necessarily have to result in the consolidation of distribution systems.

To maintain the quality of services for consumers and the proper functioning of the DSOs, it is necessary to ensure consistency of the DSO's functions in system operation, data management and system balancing.

5. Point 4 Implications for governance

Fit-for-purpose processes for the Implementation and enforcement of market rules

In the context of already enacted and future changes in the Network Codes, participation in the evaluation and implementation of these documents by DSOs is very important. Due to the fact that The Network Codes impose far-reaching obligations on the DSOs, process of their implementation and consulting should be formalized. In particular if the provisions of the codes provide the ability to choose specific modes and variations in achieving the objective set.

The role of ENTSOs

In our opinion ENTSOG should more act as an organization at the regional level than represent interests of individual companies. Only a region-based structure of the organization will guarantee that the needs of the region will be met on the one hand as well as the benefits for the regional market will be possible to achieve on the other hand.

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