



**COUNCIL OF
THE EUROPEAN UNION**

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ADDENDUM TO THE REPORT

from : Coreper

to : Council

Subject : TTE (Energy Council) on 6 June 2007

Gas and Electricity Market

a) Communication: Prospects for the Internal Gas and Electricity Market

b) Sector Inquiry on the Gas and Electricity Markets

c) Priority Interconnection Plan

- Policy debate

Delegations will find attached comments from the SK delegation regarding the above.

TTE (ENERGY) COUNCIL ON 6 June 2007**Gas and Electricity Market**
Policy debate**Position of the Slovak Republic****1. Effective unbundling**

Should further unbundling measures, if proposed by the Commission, be applied only to the transmission networks or to distribution networks as well; and should electricity and gas be treated differently?

The Slovak Republic is of the opinion, that an effective unbundling of transport and distribution system operators is needed to eliminate the barriers for competition which deform the prices and limit the investment. Slovakia is of the opinion that there is a need for a discussion on unbundling, but at current phase of building a common internal market is not ready to support ownership unbundling of networks. We find it unfortunate for the upcoming discussion, that we still do not have relevant information as requested by the Spring Council. It is necessary to consider several factors related to the successful realisation of the effective unbundling of the operators, mostly to consider the possibility of the real increase in competitiveness in those member states with high concentration and a dominant position of one business entity.

The Slovak Republic has realised the ownership unbundling of generation capacities and transmission networks in the electricity sector, however, the expected results, namely increased competition, adequate number of new market players and competitive prices failed to come. Slovak Republic (in contrary to the Commission opinion) doesn't regard unbundling as the best and universal tool for development of an internal energy market. National conditions, such as size of the market and its structure, have the most significant influence on the success of this measure. Equally, it is not sure that realisation of unbundling is able to eliminate all barriers that are limiting the investment.

Another argument is that current legislation covering the process of unbundling has not been fully implemented yet and so any assessment of the current situation or proposals for other measures is very premature. Vertically integrated companies in most of the member states are completing the process of legal unbundling just now. We are confident that the results of this process will approve themselves after a certain period of time. In our opinion, the non discriminatory access to transmission networks and the independent investment decisions related to the network infrastructure are two main indicators from the point of view of unbundling.

The Slovak Republic is convinced, that full implementation of the current legislation, first and foremost the application of the provisions on the functional and legal unbundling and regulation in line with current laws, is the most suitable measure for developing the market at the moment,. Precise definition of market barriers and following arrangements suited for each country or region will be an important measure.

It is important to consider the differences and specifications of the electricity and gas market when considering all of the suggested measures. The fundamental difference is that most production capacities in the gas sector are situated outside the EU, whereas the demand for electricity is covered mainly by the domestic production. The number of big producers in the gas sector is limited when compared with the electricity sector. The limited number of suppliers acts as a restrictive factor. Therefore, the priority should be on the diversification of supply- instead of further internal measures, which would be ineffective in case of insufficient competition on the supply side.

2. Establishment of an independent mechanism for national regulators to cooperate and take decisions on important cross-border issues

Which tasks, competences and responsibilities should be assigned to such a mechanism?

The Slovak Republic supports the idea of creating a more effective mechanism for cooperation and co-decision on important cross border issues for the national regulators. The mechanism of cooperation between national regulators should, whereby consistently taking into account national specifications and regional know how, provide adequate independence for the cooperation when approving energy security standards in the EU, energy operational standards in the EU, methods of cost allocation for non domestic/cross- border investment, approving rules and implementing measures in the areas defined by law (directives or regulations approved by the Commission) and when supplying the Commission with advise. An important condition for the functioning of such mechanism is consistent respect for relevant national legislation and that national competence on legislation is well maintained. We consider the expansion of existing cooperation within the current institutional framework as the most appropriate solution, which would also eliminate the need for a new European institution.

3. Investments in infrastructure

What measures are necessary in order to expand and develop networks in a manner which is appropriate to requirements, taking account of cost-efficiency at an overall economic level?

The Slovak Republic is of the opinion that the main condition for development of necessary investments in infrastructure is a stable and effective regulation framework, which will bring adequate incentives for investment. The role of national regulators is therefore the creation of an effective regulation framework which will increase the cost effectiveness of the investor and will respect the principle of reflecting the full costs. Proposed measures must strike the balance between the possibility to prevent the enforcement national interests at the expense of the common energy market and, on the other hand, the possibility to safeguard the security of networks and the safe network operation in the case of a threat to the integrity of the national network. It is particularly this approach that can create a stable environment for the investment in cross border capacities, what represents the basic precondition for a really functional European market.

4. Creation of a new Community mechanism for Transmission System Operators to improve the coordination of network operation and grid security, building on existing cooperation practices

Which tasks, competences and responsibilities should be assigned to such a mechanism?

The Slovak Republic supports the idea of creating a Community mechanism for cooperation of transmission system operators, which should improve the coordination of networks operation and their security. The key element for the creation of such mechanism for network operators will be the definition of European network, separately for gas and separately for electricity. The purpose of this definition will be the determination of the transmission capacity required to enable the needed cross border flows of electricity and gas. The scope of responsibilities and competences will depend on the scope of the definition.

The mechanism should contribute to the electricity network management in real time, to the prevention of significant malfunction and it should strengthen the solidarity when solving emergency situations. The fact, that business aspects are currently considered superior over technical and technological aspects, as well as group/national interests over the community interests, brings a lot of risky situations in relation to the security of network operation and the security of energy supply, whereby there is no sufficient European-level system for preventing serious collisions in the Europe. The control of compliance with the existing operational rules and the promotion of the interests of the European electricity transmission network system as whole over the narrow group or local interests will be important.

The mechanism should also optimise the rules for covering the costs which originate from the cross border flows of electricity. Existing ITC mechanisms do not effectively cover the costs of transmission system operators which originate from third parties and the methodology of payments distribution is discriminatory for some countries. In the framework of the intended proposal for binding guidelines by the Commission we consider as very important, that the compensation mechanism for cross-border flows of electricity takes thoroughly into account the costs of small networks which participate in the transmission of large amounts of cross-border flows.