

INTERNATIONAL FEDERATION OF INDUSTRIAL ENERGY CONSUMERS

EUROPE



Head Office: 119 Chaussée de Charleroi B- 1060 Brussels

Tel: 32 2 542 06 87 Fax: 32 2 542 06 92

IFIEC Europe

Documents- Oil & Natural Gas

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*In view of the European Parliament first reading on March 11, 2002,
and of the Council meeting in Barcelona on March 15, 2002*

The completion of the internal gas market in Europe

The position of European industrial energy consumers in relation to the Consolidated Proposal of the Council of February 1, 2002,

and the Draft Report of the European Parliament of December 17, 2001, to amend the Gas Directive 98/30/EC

A.Introduction

IFIEC Europe welcomes the initiative taken by the European Commission to accelerate the completion of the internal gas market with the March 2001 Proposal for a Directive amending the Gas Directive 98/30/EC. The ongoing examination is orientated to a political decision being taken as soon as possible. IFIEC Europe welcomes the recent message by the Spanish Energy Minister Jose' Folgado to MEPs in the EP Industry, Foreign Trade, Research and Energy Committees that opening up energy markets is an essential component of the Lisbon objective of making Europe the most competitive economy in the world by 2010. A competitive and liquid internal gas market is indeed an imperative for the industrial energy consumers in Europe, who are facing a decreasing number of suppliers, diminishing alternative fuel choices due to environmental restrictions and an insufficient range of competitive gas infrastructures services.

B.General Comments

Although the legal frameworks transposing the Gas Directive are in place in most EU countries, in practice, the implementation of market liberalization is not yet widely effective. There remain a number of obstacles that have, so far, limited the implementation of the Gas Directive. For this reason, IFIEC Europe is supportive of the proposed amended Directive, which addresses the primary issues for the effective completion of the internal gas market:

C. Specific comments

· Gas-to-gas competition

IFIEC Europe is of the opinion that the long-term vision for a pan-European Single gas market is gas-to-gas competition.

To achieve this aim, it is essential that the following **principles** be upheld for all market participants:

- **free choice** between a larger number of suppliers, i.e. achieving real supply-side competition,
- **access** to the gas infrastructures under non-discriminatory, harmonized and cost-reflective conditions,
- gas infrastructures (including on-shore and off-shore pipelines, LNG terminals, storage and facilities for balancing and blending) to be treated as **essential facilities**,
- **unbundling** the operation of the gas infrastructures from the commercial activities of the vertically integrated monopolies,
- clear, non-discriminatory and transparent gas **balancing rules**,
- easy and transparent access to **quality management tools** (blending, quality, swaps etc.),
- **cost-reflective charges** with no cross-subsidies, monitored by benchmarking and independent regulatory mechanisms,
- incentives to optimize and guarantee **efficient use** of available network capacity (TSO independence etc.),
- transparency and availability of **capacity information**,
- complete **interoperability** of the networks,
- **regulatory control mechanisms**
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Tariff structure

IFIEC Europe believes that tariffs should be designed to facilitate the development of competition and should be:

- **cost-reflective** and simple,
- with **harmonized methodologies** to be supervised by regulatory authorities,
- based, preferably, on an **Entry/Exit tariff** system and not related to distance,
- the underlying **asset valuation** must be based on historical depreciated values for

existing facilities and actual values for new infrastructures,

- underlying **rate of return** to be of utility-type with depreciation based on the useful lifetime of the investment,
- with appropriate incentive for TSO's to make efficient **long term investment** in the infrastructures.

Balancing regimes

Balancing regimes need to encourage gas to gas competition and therefore:

- adopt **daily balancing**
- rules and charges to be **harmonized** across networks
- **imbalance charges** to be applied indiscriminately and be cost-reflective , not-punitive

Transportation capacity

The major issues regard transparency and method of calculating available capacity:

- the **CEER guidelines** give an excellent starting point and should be fully developed,
- need to address on a transparent basis **additional issues**, such as "essential facilities" and "transit",
- **information on available capacity** and congestion must be available on a timely , non-discriminatory basis,
- **confidentiality** of information must **not be mis-used** to stop use of the infrastructure,
- regulatory authorities to be empowered to investigate and **stop abusive overbooking**,
- **methodology for calculation** of available capacity to be harmonized .
- **capacity rights** to be reviewed and subject to "**use it or loose it**" principles

Transit regime

Major issues:

- Transit regime must be **aligned to transportation**, subject to the regulatory authorities,
- Tariffs must be non-discriminatory and based on the **same methodology as transportation**,
- **Long-term contracts need to be reexamined** and brought in line with the objective of achieving gas-to-gas competition.

Guidelines for Good Practice

The recommendations on Guidelines for Good Practice published recently by a joint Working Group of the Commission and CEER represent a very good starting point.

- The minimum role for TSO's is the **maintenance, operation and development of the infrastructure,**
- TSO must offer **access to all infrastructures** and related services on non-discriminatory basis to all users,
- TSO to ensure the **interoperability** of the network,
- TSO to offer **firm and interruptible services** on demand,
- TSO to publish **standardized nomination procedures,**
- Implement non-discriminatory **capacity allocation methods,**
- Offer virtual **quality conversion** to facilitate swaps of different types of gas.

New infrastructure investments

- One of the most important tasks of a TSO is the **maintenance of the network and its development** to meet future needs.
- A structurally **unbundled** TSO is essential to capture the market signals and provide the needed capacity in time.
- **New investment** should be subject to regulatory overview. As concerns financing of new investment it might be necessary for public institutions to play a supportive role (cf. Trans-European Network program).

Achieving real supply-side competition

IFIEC-Europe believes that even a perfect TPA system will not bring gas-to-gas competition in the absence of competing gas suppliers in the market. In view of the ongoing consolidation in the E&P sector in the world it is more than necessary to ensure a minimum degree of competition in upstream activities. To address the actual lack of gas offers one needs to resolve the problem of existing long term take or pay agreements. The fact that the TOP contracts cover about 90% of the EU gas demand should be a cause for concern. Long term contracts may well be needed also in the future but their existence must not frustrate the establishment of gas to gas competition.

Solutions recommended are:

- Discontinuation of **exclusive destination clauses** in import agreements,
- **Access to off-shore facilities** under similar rules as to on-shore ones,
- Establish **Gas Release programs** to kick-start gas to gas competition.

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IFIEC EUROPE COMMENTS TO THE CONSOLIDATED PROPOSAL OF FEBRUARY 1, 2002 FOR A DIRECTIVE AMENDING DIRECTIVE 98/30/EC CONCERNING COMMON RULES FOR THE INTERNAL MARKET IN NATURAL GAS

General Comments

IFIEC-Europe welcomes the initiative taken by the European Commission to accelerate the completion of the internal gas market and the ongoing examination by the EU Council and the European Parliament.

A competitive and liquid gas market is an imperative for the industrial energy consumers in Europe, facing a decreasing number of suppliers, diminishing alternative fuel choices due to environmental restrictions and an insufficient access to the gas infrastructures.

IFIEC Europe's vision for a pan-European gas market is gas to gas competition.

To achieve this aim it is essential that we obtain real supply-side competition and that access to the gas infrastructures (including on-shore and off-shore pipelines, LNG terminals, storage and facilities for balancing and blending) be non-discriminatory, harmonized and cost-reflective.

Specific Comments

Article 2.3 : The definition of "transmission" should explicitly include "transit"

Article 2.7 : The definition of "supply" should include the arrangements for the delivery of gas

Article 2.12 : The storage facilities should be explicitly part of the "system".

Article 2.26/27 : The transmission system operator (TSO) should not be confined only to a specific territory but should be able to offer its services ,eventually via co-operation with other TSO in all the EU territory. Delete the text "..in a given area..".

Article 2.26/27 : The term "reasonable" is not precise enough. We suggest to delegate the oversight to the "regulatory authorities" under a minimum of guidance included in these 2 articles.

Article 3.2/4 : The inclusion in these 2 articles of "climate protection" and

"demand-side management" is not compatible with the competitive nature of the internal market we are trying to achieve. Delete the inclusions.

Article 7.3 : The reference to ".prevailing market prices of gas" in the last sentence is inappropriate. The methodology to be used- compatible with article 22(1f) -should instead reflect the underlying cost of the balancing service.

Delete "market prices for gas" and substitute with "reflecting the underlying cost of the services".

Article 7.3 : Balancing of the gas network should be offered on a daily or longer basis.

Article 7a. 2c : The alternative wording quoted in the footnote nr.1 should be rejected. The TSO should be as independent as possible from the gas production and supply and the original wording of article 7a.2c is better suited to obtain this aim.

Article 10. : The provision in the last paragraph that the Member States may decide not to apply this article to undertakings serving less than 100.000 customers should be deleted since it is much too high. If the Commission report establishes the need of a threshold at a substantially lower level, this could be reviewed.

Article 14.1 : Add the following text:" Tariffs should be cost-reflective, the methodology of tariff calculations should be harmonized and the underlying asset valuation should be based on historical depreciated values".

Article 14.2 : The reference to "conditions and principles as set out in paragraph1" should be maintained.

Article 15. 3 : Add the following text:" Tariffs for access to storage and flexibility instruments should be cost-reflective, the methodology of tariffs calculation should be harmonized and the underlying asset valuation should be based on historical depreciated values".

Article 16. Should remain deleted, since it does not add anything.

Article 22.3 : The response period of 2 months is too long. We recommend to change in article 22.3 and in article 21.2 the response period to 4 weeks.

IFIEC EUROPE COMMENTS

TO THE EUROPEAN PARLIAMENT

DRAFT REPORT OF DECEMBER 17,

2001, ON THE PROPOSAL FOR A

DIRECTIVE AMENDING DIRECTIVE 98/30/EC CONCERNING COMMON RULES FOR THE INTERNAL MARKET IN NATURAL GAS

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Specific Comments

Amendment 86, Recital 16

IFIEC Europe does not see how "security of supply " and "environmental protection" can be linked in the context of the gas liberalization directive.

Amendment 87, Recital 16a

The special treatment for "biogas" should not unduly increase the price of gas to the industrial consumers or constitute a quality and/or an economic problem for the use of gas as "feedstock".

Add to the last sentence: ".provided there will be no cross-subsidization and established specifications for natural gas are met".

Amendment 88, Recital 16b

IFIEC Europe recommends to **delete this amendment**.

Long term take or pay (TOP) contracts have been and continue to be a strong barrier for new entrants to a market in which there are already too few players.

TOP contracts undermine the liberalization process and hinder competition.

Member States should be encouraged to initiate "gas release programs" to kick-start competition.

Amendment 106

The obligation to make the "entire available capacity" available for optimum use is highly appreciated. However, it is necessary to establish an harmonized definition of available capacity across border lines and give the regulatory authorities a monitoring function.