

# GIE reaction to ACER's green paper "Energy Regulation: A bridge to 2025"

---

## 1 General comments

In the document 'European Energy Regulation: A Bridge to 2025, Public Consultation Paper', ACER includes four priority questions:

1. *Have we identified correctly the issues and trends within each area of the energy sector?*
2. *Have we identified an appropriate regulatory response?*
3. *Which regulatory actions are most important and should be prioritized?*
4. *Are there other areas where we should focus?*

In this response to the ACER document GIE will answer these priority questions.

## 2 Who is GIE?

Gas Infrastructure Europe (GIE) is an association representing the interests of European natural gas infrastructure operators active in natural gas transmission, storage and LNG regasification. GIE is a trusted partner of European institutions, regulatory bodies and industry stakeholders. It is based in Brussels, the heart of European policymaking.

GIE currently represents 69 member companies from 25 countries. Its internal structure has three columns corresponding to the three types of infrastructure activities represented: GTE (Gas Transmission Europe), GSE (Gas Storage Europe) and GLE (Gas LNG Europe), all of which fall under the umbrella of GIE. This structure allows member companies to speak with one voice on infrastructure topics as well as to build positions on column-specific issues.

## 3 Answers to consultation

### 3.1 Have we identified correctly the issues and trends within each area of the energy sector?

GIE welcomes the efforts by ACER to identify the main trends up to 2025 and formulate high-level regulatory responses to these challenges. This process has the potential to increase regulatory stability, which is fundamental for achieving a well-functioning internal energy market. There is however also a risk in rushing to action without having properly assessed the progress which is expected for example as a result of the implementation of the Third Energy Package and recently adopted network codes.

ACER rightly concludes that gas markets are becoming more interconnected. Challenges remain, however it should not be forgotten that substantial cross-border capacity already exists in Europe and gas markets have enabled gas to be transported throughout Europe for many decades. Investments in gas infrastructure have resulted in a robust system which can transport large amounts of energy. In that sense Europe already has an 'Energy Highway': the gas infrastructure.

Energy policy and regulation should enable optimal use of the existing infrastructures as well as to provide appropriate incentives for its maintenance and development.

### **Network codes process should be the priority**

Further progress in market integration is expected as a result of the (early) implementation of network codes. The work on the Gas Target Model (GTM) is mentioned by ACER. GIE would like to highlight one of the conclusions in the 'Conclusions Paper of the CEER Vision for a European Gas Target Model' (1 December 2011) which states at the end that *"the model should be evaluated and if necessary further developed after the implementation of the network codes on capacity allocation mechanisms, gas balancing, harmonised transmission tariffs and gas interoperability in 2013 as well as in the light of the work on incremental capacities in 2012 and their practical implementation [...]"*. Reviewing the GTM at this moment in time would omit the further progress which is expected to be achieved in the next two years.

Formulating new criteria on top of the existing measures in the GTM would lead to additional regulatory burden and take away the focus of market parties to implement the legally-binding network codes and develop market-based solutions for increasing the integration of the European energy market. Moreover GIE is of the opinion that the results which are expected to come from the implementation of the network codes are not sufficiently included in the trends identified by ACER. GIE believes that a proper assessment of these results should still be conducted, before precluding on the need for additional measures.

### **Price convergence**

Another element which does not seem to be reflected in the paper is the fact that there is already substantial gas price convergence and price correlation amongst the major hubs along a spine in Europe. This conclusion also seems to be underwritten by ACER's own Market Monitoring.<sup>1</sup> The conclusions from a Booz & Co. study from last year<sup>2</sup> also confirm the considerable progress which has been made in enabling the internal energy market. These studies indicate that Europe is making substantial progress towards creating an internal energy market.

### **Flexible gas-fired power generation**

GIE agrees with ACER that in any conceivable scenario the share of intermittent renewable electricity generation will increase. This creates challenges, mainly for balancing and guaranteeing security of supply of the electricity networks also during peak demand. Gas infrastructure and gas-fired power plants can contribute in meeting these challenges, yet requiring to be appropriately remunerated to do so. If capacity mechanisms are considered, they should be designed according to market rules, in due coordination with neighbouring countries, and avoiding market distortions as much as possible.

### **Declining European production**

Concerning the reduction of indigenous production of gas in Europe, GIE would like to mention that infrastructure operators have already started to respond to the projected decline in domestic production and the need for additional imports. Investments in LNG, seasonal storage, import pipelines and interconnections have been carried out. Furthermore the first list of Projects of Common Interest includes many projects which would further contribute to the resilience and security of supply of the European gas infrastructure network.

---

<sup>1</sup> ACER/CEER Annual Report on the Results of Monitoring the Internal Electricity and Natural Gas Markets in 2012, November 2013.

<sup>2</sup> Booz & Co Benefits of an integrated European Energy Market, July 2013.

It should also be noted that the production of non-fossil gas such as biogas is expected to increase significantly in the period up to 2025. European market rules should be designed in such a way that they facilitate this development.

### **Investment challenges**

Concerning the challenges of new investments, GIE would like to mention that the Third Energy Package does not contain any provision to ensure that the required infrastructure gets built. The Energy Infrastructure Package tries to address this problem by making clear the need to attract the capital resources required by long-term and capital-intensive infrastructure investments via incentive regulation and fast-track permitting procedures, combined, where relevant, by other measures such as cross-border cost allocations and subsidies. Investment challenges remain however, partly due to a short-term and cost reduction focus of NRAs. This can be to the detriment of security of supply and gas prices in Europe. Recent experience with cross-border cost allocation also shows that there remains scope for increased cross-border cooperation by NRAs. Coordination of regulators activities seems most appropriate at European level within the framework of Regulation (EC) No 713/2009, where ACER is given a clear role of coordinating NRAs' actions at cross-border interconnection points. Adding a new regional level would increase administrative burden.

## **3.2 Have we identified an appropriate regulatory response?**

### **Increased interaction between electricity and gas markets**

The increased interaction between electricity and gas markets is mentioned by ACER as a key trend. Increased cooperation between electricity and gas TSOs and both ENTSO-E and ENTSO-G seems appropriate. A more integrated evaluation of planned investments in gas and electricity infrastructure could be considered in this respect and could lead to more optimal solutions for transporting energy through the internal market.

GIE considers that the coordination of gas and electricity markets should be improved in order to ensure that the integrity of the system is ensured, that the security of supply is warranted, and that there is no cross-subsidy between network users. In this respect, special attention should be paid to possible regulatory barriers hampering the interaction between the electricity and gas markets before introducing new regulatory measures. In addition this should not lead to discriminatory treatment of gas infrastructure users as this could risk decreasing the attractiveness of gas and gas infrastructures.

### **Long-term regulatory stability**

A stable and predictable regulatory framework, providing fair remuneration of the assets is a *conditio sine qua non*. Currently ACER does not include in the regulatory response concrete actions to ensure this. The regulatory framework should enable long-term commitments, from users and/or regulators, as an essential part of the gas market. Therefore GIE regrets that the Framework Guidelines on Tariffs does not provide any incentives to shippers to book on a long-term basis, which could be to the detriment of new investments, and therefore GIE calls for a Tariff Network Code which could introduce remedies to this issue.

### **Liquid hubs and market integration**

ACER indicates that additional measures could be forthcoming with respect to trading hubs. GIE considers that liquidity at all hubs is not an objective in itself. Not every virtual trading point needs to be deep and liquid provided there is sufficient interconnection capacity between them. The

recent OIES study confirms that several hubs covering the vast majority of gas demand in Europe are now well aligned.

Regarding market integration, the assumptions made, the evaluation of the costs and benefits and the overall process should be transparent. The costs and benefits of any regulatory measure should be carefully evaluated and the various options of improving the market functioning should be taken into account. In particular, the challenges in coordinating and aligning the corresponding regulatory systems across borders should not be underestimated.

Additional targets, indicators or measures should only be considered if the network codes which are currently being implemented and those which are still under development would not resolve fundamental issues in local and regional gas markets. Furthermore trading hub requirements should be based on broad consensus of all relevant stakeholders.

#### **Governance of ACER and ENTSOs**

GIE is of the opinion that the fundamental roles of the entities are well defined in the Third Energy Package and does not think that further legislation regarding the role of ACER or ENTSOG as well as the roles of other entities is needed.

### **3.3 Which regulatory actions are most important and should be prioritized?**

The main focus should be on the development and implementation of the framework guidelines and network codes.

### **3.4 Are there other areas where we should focus?**

- Ways of ensuring consistency and coherence between the Commission's policies and ACER's regulatory proposals in order to ensure a proper investment climate. In particular concerning the lack of clarity of the long-term role of gas, while huge investments are required in gas infrastructures to achieve the EU internal gas market.
- An acknowledgement that long-term capacity contracts are crucial to ensure new investments and maintain existing capacities.
- A consideration of the fact that in principle, investments should be market-based and should be made where they are the most needed, whilst preserving costs optimization and gas competitiveness, and ensuring the value of existing investments.