



GEODE POSITION PAPER ON ERGEG PUBLIC CONSULTATION ON MARKET ABUSE ISSUES RELATING TO ENERGY TRADING

GEODE supports the analysis of market failures in the electricity and gas markets described in the ERGEG paper. In Member States without a well-functioning wholesale market, big generation companies abuse their market power by granting better tariffs for affiliated suppliers and strategic customers thereby causing distortions for the development of true competition.

GEODE agrees with ERGEG opinion that the scope of Directive 2003/6/EC, Market Abuse Directive (MAD) may not properly cover market integrity issues in the electricity and gas markets and that the scope of disclosure obligations in MAD does not apply to physical market products and that the scope of market abuse regulations of the MAD (insider trading, market manipulation) does not apply to physical markets for electricity and gas. Therefore European Commission legislative proposals including measures to improve transparency between generation and sales should be addressed.

GEODE considers market information (information transparency) to be a prerequisite for a well-functioning market. It is essential that relevant market information is made available to market actors. Market actors should have equal access to the same information. Relevant information includes data on transmission (also cross border) generation and trade.

TSO's should publish information close to real time and they should harmonise market information available on both sides of the market borders. Therefore **GEODE** supports ERGEG proposal to set up at European level a harmonised list of fundamental data required to be published.

GEODE asks for the following information to be provided by TSO's **regarding electricity markets** (*These list of information was delivered to EURELECTRIC as requested by the Electricity Florence Forum in September 2005*)

- Power flows over the interconnectors: actual and planned on a daily basis.
- Congestions: hourly information on congestions, its causes, location and frequency.
- Capacity: information on a daily basis on available transfer capacity, capacity allocation, capacity reserve for long-term contracts, capacity reserve for long-term contracts but not being used by application of the principle use-it-or-lose-it.
- **Balancing Power demand:** Transparency, in respect to balancing power demand, can only be achieved if TSOs provide sufficient information on the current and forecasted status of the supply and demand side.
- **Supply:**



1.- A European wide harmonisation of timing structures is essential to create a well functioning market. A 1 hour timing structure which unites the virtues of simplicity and efficiency should be preferred as opposed to the complex 15 minute timing structure.

- **Generation:** following the academic debate, an efficient and reliable regulatory regime must be based on practicable means without causing interruption in the electricity market. Therefore a regulatory approach must follow the principle of minimal monitoring while achieving a maximum of market transparency to create a true level -playing- field for all market participants.
 - TSO shall collect and provide aggregate information on past and real-time generation by fuel type for each price area in a power exchange.
 - Generators shall in advance publish the forecasted revisions and other outages of power plants in excess of 200 MW.

Regarding gas, information on the pipelines system and all its entry and exit points specifications conditions, availability of ancillary services and factors influencing the availability of transports services is needed. TSO has to provide information on the risks emanating from fluctuation in gas quality and pressure, the liability in such a case and which measures will be taken by the TSO on what costs to guarantee continuation of flows.

GEODE considers that at least fixed and variable tariff elements as well as the principle or methodology underlying the access tariffs must be clearly defined and published.

It is essential that capacity information is published in a manner ensuring that the value of information on capacity is the same to networks users who have contracted capacity and those who have not. Also contracted capacity need to be published to enable competitors to evaluate the market and their options.

GEODE supports ERGEG proposal to implement disclosure obligations in the energy regulations that should be legally binding and contain a sanction mechanism in case of non-compliance. **GEODE** also agrees with the idea of launching a market abuse frameworks specific for the energy sector.

However **GEODE** suggests to limit the detailed of information requested when there is a proven fact that the cost of providing the information is significantly higher than the expected benefit (as mentioned by ERGEG on its GGP on information management & transparency). **GEODE** would like to underline that any additional administrative burden to DSO's arising from fulfilling requirements on information transparency, will reflect financial costs that have to be recovered by the distributor through the distribution tariffs.

Barcelona 25th July 2008