

AFM + E Aussenhandelsverband für Mineralöl und Energie e. V.

bne Bundesverband Neue Energieanbieter e. V.

VEA Bundesverband der Energie-Abnehmer e. V.

VIK Verband der Industriellen Energie- und Kraftwirtschaft e. V.

Comments

on the ERGEG Report
on the Transmission Pricing (for transit)
and how it interacts with Entry-Exit Systems
of 28 June 2006

Berlin, Essen, Hamburg, Hannover, 24 August 2006

We very much welcome that ERGEG starts the discussion on interaction between Transmission Pricing (for Transit) and Entry-Exit Systems. The position of large energy intensive users is shown in the following statement. We believe that the abandonment of distance related tariffs and opaque methods of capacity allocation is one of the paramount requirements for an harmonized European gas market.

1. Definition and Classification of Gas Transit Flows

According to the EU Gas Directive 2003/55/EC and the Regulation 1775/55/EC there should not be a distinction between gas flows in transit and gas flows in transport. Different rules shall apply to pipeline systems that “are primarily used in the context of local distribution of natural gas with a view to its delivery to customers”.

This measure implies that there must not be any distinction between tariffs of high pressure pipelines used for transit gas flows and for transport to regional, local or industrial customers or for both cases (most of high pressure pipelines in practice are used for both cases). Also, there must not be a dissimilarity in the method to set these tariffs.

2. Requirements on Gas Transit

We underline the importance to simultaneously establish a regulated Third Party Access regime for all transmission flows including transit.

The principle of non-discrimination implies that there is no space to establish methods that would enable the setting of exclusive transit tariffs. According to the directive and the regulation (and especially for transits the Energy Charter Treaty too) the tariffs shall be strongly cost based.

Only additionally (but not at all alternatively) the regulation 1775/2005 enables national regulatory authorities to take into account the benchmarking of tariffs. This is underlined by the Draft Explanatory note of DG Energy and Transport of the regulation 1775/2005 of 28 September 2005: “It is of utmost importance to accurately define the role of benchmarking when it comes to setting up tariffs: the regulation clearly introduces the possibility of benchmarking not as an equally eligible option between a cost reflective and a benchmark approach, but only as a complementary element to the cost based tariffs setting approach, which can be applied in certain circumstances. That means above all that benchmarking tariffs with a view to establishing them is without prejudice to the

general principle of Article 3 of the Regulation, i. e. tariffs shall reflect those costs that are incurred by an efficient operator. It also means that benchmarking is not mandatory, but an admitted option “where appropriate” i. e. in certain circumstances. Against this background, the Commission services take the view that benchmarking can be used as an element complementing the cost based tariff setting approach in certain circumstances”.

Before a benchmarking of tariffs is being taken into account by a regulatory authority in addition to a cost reflective setting of tariffs, it is of paramount importance for the regulatory authority to define clear and accepted criteria for effective pipeline-to-pipeline competition. We agree that questions listed under pt 23 should be answered sufficiently and in great depth. In addition, tariffs and calculation methods shall require transparency of capacities and gas flows. Only a high level of transparency can prove as to whether efficient pipeline-to-pipeline competition prevails or whether it is minatorial. While we believe that pipeline-to-pipeline competition does not exist in meshed network systems on a regular basis we urge the authorities to consider the following 6 C’s:

- Comparability: Do tariffs at entry points reflect the level of service in terms of accessibility i.e.
 - are entry tariffs equal when they provide access to the same exit capacity and points
 - are entry tariffs different when they provide access to different exit capacity and points
- Cooperation: Do network operators cooperate at entry points in order to create a more attractive product?
- Cost-separation: If pipeline-to-pipeline competition is being proven within parts of a network, does that lead to an omission of incentive and cost-based tariff for the whole system?
- Compatibility: Additionally it is necessary to harmonize the entry/exit systems across the EU-countries in order to reach the goal of increasing the efficiency of network usage. This requires a close cooperation of all network operators in a non-discriminatory way.
- Congestion methods: Rather than establishing a system with explicit auctions, few incentives to invest and little regional coordination, European regulation should consider implicit auctions, appropriate incentives to expand capacities with an regional focus.

- Cartel: If two or three grid operators offer entry capacity at the same point, does this constitute the potential for collusion in terms of setting price or providing capacity?

Cross subsidies for network users and pancaking can only be avoided by an European entry-exit system. In a regional or even an European entry-exit system, users pay only one entry- and one exit tariff. Grid operators have to wheel costs from neighbouring grid operators and roll them into their tariffs in line with accepted and commonly agreed methods. They need to cooperate with all networks connected with their own network when calculating tariffs of entry and exit capacities. This is an important difference between point-to-point system and a regional entry-exit system.

Furthermore we consider that auction mechanism for Capacities (bottlenecks) in the European context shall be harmonized.