



CEDEC POSITION PAPER

ERGEG Best Practice Proposition Customer protection

CEDEC – representing local energy companies at European level – considers consumer protection as an essential and integral part of a liberalized energy market. CEDEC participated in ERGEG's Customer Focus Group in October 2005 and welcomes the integration of several elements it proposed at that occasion, in the ERGEG Best Practice Propositions on Consumer Protection.

Article 3 in the electricity and gas directives, and its application in the market environment, is crucial for the evaluation of best practices concerning consumer protection.

In its proposition, ERGEG has identified three strategic priorities for customer protection, on which CEDEC would like to formulate some observations :

1. Through a timely connection to a distribution network to provide the customer with energy at reasonable prices

Regulatory authorities should ensure that the tariffs and prices for connection and other network services are indeed non-discriminatory, reasonable and transparent. This is an elementary requirement of the electricity and gas directives, which CEDEC can only support.

The customer shall indeed be guaranteed a connection, an upgrade of connection or activation of connection to the electricity distribution network within a reasonable time after request.

However, CEDEC opposes firmly to the use of what is called an "integrated" single contract with the supplier :

- It is the sole responsibility of the distribution grid operator (DGO) to analyse, organize and realize the connection, in view of the professional technical management of the grid. It is to be feared that the commercial approach of suppliers (even supposing that they have the necessary technical know how) will not have as a central priority the technically safe management of the grid. Therefore separate contracts for grid operations and supply are necessary.
- The connection to the grid makes part of the regulated grid activity - in the spirit of the unbundling requirements. Therefore separate contracts should exist for connection and access to the grid (regulated activity) and for supply (commercial activity).
- In case of a single contract: if a customer is dropped by a supplier (end of contract), there is not any contractual relationship between the consumer and the grid operator.

ERGEG proposes that if the provision of connection or activation of connection to the distribution network is delayed, the customer should be compensated for the delay.

CEDEC is opposed to the automatic allowance of an individual financial compensation to customers because of the delayed realization of a connection.

CEDEC supports however a system in which the regulator – on the basis of technical regulation standards – carefully controls the quality of the services of the DGO's (including the connection time) as it is already the case in certain countries, where DGO's send a yearly quality report to the regulator.

Moreover, CEDEC insists on the use of (more) qualitative parameters in benchmarking exercises by regulators.

CEDEC agrees that distribution system operators who are part of a vertically integrated company, should act in a non-discriminatory way, and should not give priority to connections of customers who stick to or choose for the affiliated supplier.

2. To ensure reliable and continuous supply of good quality

ERGEG states that the network operators should make their best efforts to ensure their customers' supply of electricity with good quality. The network regulatory systems applied to distribution network operators should include right and proper incentives to promote supply of good quality.

CEDEC fully supports this crucial principle. Local energy distributors, who have strong roots at local level, have a natural incentive to guarantee a quality public service by making the required investments in the local or regional distribution networks. They can, however, only guarantee quality and continuity insofar as the network regulating regime allows the DGO to dispose of the necessary financial resources.

Regulators responsible for the approval of tariffs for access to the distribution networks should authorize an appropriate profit margin in order to allow a fair return to the shareholders who initially have made capital available, and who need an economic incentive to continue to invest.

Moreover, a depreciation policy which reasonably reflects the economic life time of the assets, and thus provides the necessary financial means for future investments, may not be refused by a regulator for reasons which have to do with a short-term objective, in particular a maximum reduction of network access tariffs without concern for the long term security and continuity of supply.

In the absence of these two elements – reasonable return and depreciation policies – the will and financial capacities to invest will be undermined and – through a deterioration of network quality – security of supply will be jeopardized.

ERGEG proposes that customers should be entitled to compensation in case the supply is interrupted for a non-negligible time.

CEDEC insists that one should keep in mind that – due to the physical characteristics of the product electricity and due to uncontrollable external factors – the risk of discontinuity is an inherent element of electricity supply.

The responsibility of the DGO in case of mistake is already foreseen in current legal frameworks. Apart from the question how “non-negligible” should be defined, and how it will be interpreted by different types of energy consumers, one should also question the principle of automatic compensation without proof of guilt and damage. For example if the interruption didn't harm the consumer at all, because the interruption took place at night or during the absence of the consumer. The regulatory framework could impose a financial compensation (preferably lump sum), in the sole case of direct material damage due to a proven mistake of the DGO.

The DGO's do have an obligation of means according to which they are obliged to make every best effort to offer their customers an uninterrupted access to the network. CEDEC is opposed to any disposition which would include an obligation of result for the DGO, especially in the case of continuity of supply.

3. To help the customer effectively redress the conflict with the service provider

The rights of energy consumers, in particularly the most vulnerable between them, must be defended. A dispute settlement system that guarantees the customer a timely procedure without a charge, should be available. The dispute settlement system should of course be neutral, transparent and efficient.

CEDEC is of the opinion that suppliers must respect a code of conduct to prevent consumers from becoming victims of commercial practices that infringe on elementary consumer rights.