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COMMISSION FOR ELECTRICITY
AND GAS REGULATION

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TO THE

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SYNOPSIS

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I. Wholesale market

➢ Development with regard to market concentration

Electricity

Total installed production capacity increased to 15,802 MW in 2010 and included 195.9 MW of installed capacity in offshore windmills.

Net consumption plus network losses was estimated at 85,9463 GWh in 2010, compared with 80,194 GWh in 2009, representing an increase of 5.66%.

As regards supplies to large-scale customers connected to the federal transmission grid (>70kV), the market share of Electrabel was estimated at approximately 88.7 %, i.e. an increase of approximately 1.1% compared with 2009.

The total volume of energy taken up by end customers from the federal transmission grid rose by almost 11 % in 2010, from 12,332.8 GWh in 2009 to 13,714.0 GWh in 2010.

As regards the production market, it is clear that during the course of 2010, the dominant position held by Electrabel declined, although it remained very strong.

The HHI of the production market amounted to 5,500 in 2010, compared with 5,770 in 2009.

Natural gas

Total natural gas consumption rose to 215.3 TWh, representing an increase of 10.9 % compared with the level of consumption in 2009 (194.2 TWh).

The merger between GdF and Suez and the fulfilment of the conditions imposed by the European Commission further to the approval of the merger in 2008 had a major impact on the way the market developed in 2010 and in particular on the market shares of Distrigas and the GdF Suez group on the natural gas transmission market. With a market share of 52.1 %, Distrigas did, however, remain the dominant player in 2010.

The HHI of the gas market stood at 3,600 in 2010.

➢ Regional integration of the market

Electricity

Having exported electrical power on an annual basis in 2009 for the first time since the liberalisation of the electricity market, Belgium again imported electricity on an annual basis in 2010, albeit only on a very small scale. Until 8 November 2010, the markets were coupled via *Trilateral Market Coupling* (TLC), involving Belgium, France and the Netherlands. On 9 November 2010, the market coupling was extended to cover the Central West Europe region

(CWE), which means that the Belgian daily market is now coupled, on the basis of implicit auctions, with France, Germany, Luxembourg and the Netherlands. Via *Interim Tight Volume Coupling* (ITVC), which was likewise launched on 9 November 2010, the CWE region is also coupled with the Scandinavian market by means of a mechanism based on volumes (*Volume Coupling*).

Natural gas

Belgium occupies a strategic position as a hub in the natural gas systems of the North-West region. This position is reflected in the large number of interconnections with adjacent networks and the volumes of natural gas brought in for international transit and local supplies. Whereas in previous years congestion with regard to the supply of entry capacity at the Eynatten and ‘s Gravenvoeren interconnection points remained an issue, this was overcome in 2010 thanks to the additional investments made. In this respect, the introduction of the two-directional flow at the Zelzate entry point and the reinforcement of the east-west axis by means of the rTr2/VTN2 project rank among the most striking achievements.

- **Development of electricity and natural gas exchange platforms**

Electricity

In 2010, the coupling of the day-ahead markets between Belgium (Belpex), the Netherlands (APX) and France (EPEX FR) once again proved successful: in fact, the three markets only seldom operated in total isolation from one another. Belpex and EPEX FR were coupled 87 % of the time, Belpex and APX 73 % of the time. Belgium was isolated from the other two markets for just 1.2 % of the time. The daily congestion rents amounted to a total of € 33.3 in 2010.

It may, moreover, be observed that average prices on the wholesale market are higher than in 2009 (€ 46.3/MWh in 2010, compared with € 39.4/MWh in 2009).

The volume traded on Belpex DAM accounts for approximately 14% of the Belgian market. The total volume bought on Belpex in 2010 amounted to 9.6 TWh and the volume sole 8.9 TWh. In 2010, 35 players were active on the Belpex DAM.

Finally, for the day-ahead market exchanges were virtually identical to those recorded in 2009 (OTC: in 2010 = 73%, compared with 2009 = 74% and exchange: in 2010 = 27%, compared with 2009 = 26%), while for the intraday market the share of exchanges fell sharply (OTC: in 2010 = 65%, compared with 2009 = 77% and exchange: in 2010 = 35%, compared with 2009 = 23%).

Natural gas

At national level, activity on the APX Gas ZEE natural gas exchange remains very limited: 75 transactions were recorded in 2010. This observation also means that the OTC trade (over the counter) at the Zeebrugge hub remains the central element of the trade in Belgium. Even though in 2010 the total volume traded at this hub reached a similar level to that of 2009, a significant increase in liquidity was nevertheless observed.

II. Retail market

- **Market concentration**

Flemish Region

The number of suppliers continues to increase compared with 2009 (28 for electricity and 21 for natural gas).

However, both the electricity market and the natural gas market remain highly concentrated (HHI: 4,812 for electricity and 4,680 for gas).

Walloon Region

The number of suppliers continues to increase steadily (22 for electricity, 18 for natural gas) and real competition may be observed.

Both the electricity market and the natural gas market remain highly concentrated (HHI: 4,044 for electricity and 3,652 for gas).

Brussels-Capital Region

As at 31 December 2010, 13 companies held a licence to supply natural gas and 15 held a licence to supply electricity on the territory of the Brussels-Capital Region.

At the end of 2010, five suppliers operated among household customers. It may therefore be said that a sufficient level of competition is assured in the Brussels-Capital Region for this customer segment.

- **Development of switching**

Flemish Region

In 2010 the maximum period to effect a switch was four weeks.

The electricity and natural gas markets in Flanders were characterised by increased switching activity (6.68% in 2010) and a rise in the number of green contracts (an increase of 15%).
Most contracts on the household market in Flanders for both electricity and natural gas are signed for one year.

Walloon Region

Customers have now truly embraced the liberalisation of the market: almost three-quarters of household customers have concluded a contract for natural gas and 70% a contract for electricity.
At the end of 2010, it may be observed that for natural gas, four and for electricity six out of ten household customers had opted to conclude a contract with a newcomer.
The trend seen in the year 2009 towards the stabilisation of the rate of switches between 2 and 4% was confirmed in 2010.

Brussels-Capital Region

In the Brussels-Capital Region, supply contracts are signed for three years for both electricity and natural gas.
The average switch rate for household customers in 2010 was 3.4 % in electricity and virtually the same in natural gas. Among business customers, this rate stood at 15.8 % in electricity and 22.6% in natural gas in 2010.
Among business customers, the switch rates relating to a change of supplier are increasing steadily. Compared with 2007, this increase is respectively 5.9 % for natural gas and 4.5 % for electricity.

- **Price trends**

Electricity

The price paid by the end customer rose in August 2010 compared with December 2009. This increase is due primarily to the trend in the supplier's price parameters, a substantial rise in the federal contribution (1.60 €/MWh) and the increase in quotas to be supplied with regard to green certificates further to a higher contribution for renewable energy and cogeneration.
The unit price of the kWh of free electricity in Flanders fell, which means a decrease for the distribution rates.

The trend in the energy price invoiced for low voltage by a supplier is identical for business customers and household customers.

Natural gas

Like electricity, following the sharp rise in 2008 and the downturn in 2009, natural gas again moved upwards in 2010. However, the level seen in 2008 was not reached. In 2009-2010, we also note the decoupling of natural gas prices from oil prices. This increase is partly offset by the fall in transmission grid rates.

III. Public service obligations and consumer protection

Flemish Region

Suppliers are obliged to indicate the origin of the electricity on the invoice (fuel mix).

For the electricity market in Flanders, 6.1% (156,412 household customers) benefited from a specific social rate with their commercial supplier in 2010 (the figure in 2009 was 121,914 or 4.7%). This increase is due to the fact that as of 2010 the social rate is granted automatically.

For the natural gas market in Flanders, 5.7% (88,272 household customers) benefit from a specific social rate with their commercial supplier (the figure in 2009 was 65,942 or 4.33%).

In 2010, the VREG received 411 complaints from end customers regarding energy suppliers and grid operators. A total of 293 complaints were dealt with.

CWaPE

The regional mediation service for energy (“SRME”), which has been in operation since 1 January 2009, has the task of processing, within the limits of the areas of competence granted to the regions, questions and complaints relating to the activities of suppliers and grid operators.

During the course of 2010, the SRME received a total of 5,761 written requests (electricity and natural gas).

Brussels-Capital Region

For the electricity market 7.9% (40,407 household customers) benefited from the specific social rate in 2010 (in 2009 the figure stood at 5.2% or 26,243 household customers). The reasons for this increase are the same as those given for the Flemish Region. For the

natural gas market, 8.5% (31,272 household customers) benefited from a specific social rate (compared with 3.5% or 12,715 household customers in 2009).
BRUGEL recorded 115 complaints in 2010.

Energy mediation service

The energy mediation service has been operational since 10 January 2010. This service has competence to deal with any disputes between an end customer and an electricity or natural gas company and distribute requests and complaints concerning the functioning of the electricity and natural gas market.
In 2010, the Mediation Service received 1,889 admissible complaints. In other words, 54.8 % of the complaints received fell within the jurisdiction of the energy mediation service. The energy mediation service was not competent to deal with 492 complaints (12.5 %).
The energy mediation service was able to finalise and close 978 of the 1,889 admissible complaint dossiers (51.8 %). The period of time for processing a complaint dossier is 20 working days to examine the admissibility of a complaint and a further 40 working days to finalise the dossier (renewable for the same period).

IV. Tariff trends

Trend in electricity transmission tariffs

To the extent that the tariffs for use of the transmission grid and for auxiliary services are multi-annual tariffs that have been approved for the entire regulatory period 2008-2011, they remained unchanged in 2010 compared with 2009 and 2008.

Trend in electricity distribution tariffs

The 2009-2010 trend was considerably flatter than that between 2008 and 2009 and may be attributed mainly to the application of an indexation mechanism to the management costs and to a lesser extent to the trend in other elements such as depreciation and non-manageable costs (for instance, public service obligations). In 2010, imposed tariffs were invoiced for two Walloon distribution network operators (Tecteo and Wavre) and for the pure Flemish sector (Infrax West, Inter-Energa, Iveg and PBE). These are based on the most recent corresponding total revenue elements approved, i.e. the tariffs for the 2008 operating year.

Trend in natural gas transmission tariffs

The new multi-annual tariffs for the transmission, transit and storage of natural gas came into force in January 2010 and are valid until 31 December 2011. The entry/exit tariffs (transmission and transit) have been set in accordance with current European legislation, using a tariff-setting method based on costs and applicable both to the transmission of natural gas intended for the Belgian market and transmission from border to border. Equivalent principles have been applied for the determination of storage tariffs. These new transmission tariffs for Belgian consumers resulted in a 28 % drop in tariffs compared with 2009. Meanwhile the (indexed) tariffs for the use of the liquefied natural gas terminal remain unchanged.

Trend in natural gas distribution tariffs

The 2009-2010 trend was considerably flatter than that between 2008 and 2009 and may be attributed mainly to the application of an indexation mechanism to the manageable costs and to a lesser extent to the trend in other elements, such as depreciation and non-manageable costs (for instance, public service obligations).

The provisional tariffs applied by the distribution network operators (Infrax West, Inter-Energa, Iveg and ALG) did not undergo any alteration since the provisional tariffs for 2009-2012 are identical to the tariffs in force for the 2008 operating year.

v. Investments in the transmission grid

Electricity

In 2010, Elia System Operator (hereinafter referred to as Elia) and RTE set up a second 225 kV three-phase line on an existing electricity line stretching 15 kilometres between Moulaine in France and Aubange in Belgium. According to Elia, thanks to this investment the exchange capacity between France and Belgium can be increased by around 10 to 15 %.

In addition, as part of the plan to increase the capacity of the transmission grid between the coastal region and the interior of the country, a new 150 kV cable has been installed between the Blauwe Toren and Bruges sub-stations.

Natural gas

The investment programme of the transmission grid operator covers both forward-looking reinforcements of the grid aimed at supplying the Belgian natural gas market and the investments to provide additional capacity for transmission from border to border on the

basis of long-term reservations. In 2010, Fluxys, the transmission grid operator, allocated an investment budget of some € 400 million to reinforcing the grid.

VI. Capacity allocation

Electricity

The overall volume of commercial capacity available at the borders during the course of 2010 did not undergo any significant changes compared with 2009, despite the increase in unidentified flows due to the huge injection of wind energy in northern Germany thanks, among other things, to the use of phase-shift transformers.

Natural gas

In terms of capacity allocation, Fluxys launched in 2009 a subscription period procedure in consultation with and under the supervision of the CREG so as to provide a solution to the problem of capacity congestion encountered at certain entry points on the transmission grid. The subscription period procedure was amended as part of the 2010-2011 indicative transmission programme on the basis of feedback further to the 2009-2010 subscription period. The feedback from the subscription period was used, among other things, for the launch of the consultation process on the basic principles of an optimised transmission model. On 23 November 2010, Fluxys submitted a new proposed indicative transmission programme for the period 2011-2012 in which the subscription period procedure has been abolished further to the assertion by Fluxys that no congestion was expected on the transmission grid during this period. The proposal was approved by the CREG on 8 December 2010.

VII. Security of supply

- **Development of investments**

Investments in generating units

With regard to prospective investments in onshore generating units known as at 31 December 2010, 946 MW are under construction, 3,455 MW have been authorised and 2,502 MW are planned. With regard to prospective investments in offshore generating units known as at 31 December 2010, 460 MW are under construction and 1,112 MW have been authorised.

Investments in the electricity transmission grid

The main development in the electricity transmission grid for the future is the Stevin project planned by Elia, which consists of extending the 380 kV grid between Zomergem and Zeebrugge in order to transmit to the interior of the country energy produced by wind farms. The Stevin project will also contribute to create the conditions for a new interconnection on the Belgian grid by means of a submarine link with the United Kingdom and to improve the security of the electricity supply in western Flanders as well as enabling the continued economic development of the port of Zeebrugge.

The various authorisation procedures needed for the construction of the project are scheduled to be completed by the end of 2012 so that the actual work could begin early in 2013 and be completed in 2014.

Extension of storage capacity

In the context of the gradual expansion of the underground storage capacity in Loenhout, the useful storage volume increased from 650 million cubic metres of natural gas in 2009 to 675 million cubic metres in 2010.

Reinforcement of North Limburg

In 2010, a major extension was undertaken of the existing H-gas pipeline from the Dilsen entry point to Lommel, in a region supplied mainly by Dutch L-gas.

rTr2

The laying of the rTr2 pipeline parallel to the existing bi-directional rTr1 pipeline along a stretch covering almost 170 km between Eynatten and Opwijk was the main achievement in 2010.

Reinforcement of north/south axis

With regard to the north/south project, the new capacity amounts to 10 billion m^3 per year. The additional compression capacity needed for this north/south project is provided at Winksele and Berneau.

Open Season relating to the transmission capacity from France to Belgium

The first non-binding phase of a market consultation process designed to gauge market interest in the transmission capacity from France to Belgium was completed in 2010. It will not be possible to begin the binding phase, however, until the initiator, EdF, has decided to build a new LNG tanker terminal in Dunkirk.

Open Season relating to the transmission capacity to the Grand Duchy of Luxembourg

In the second quarter of 2009, Fluxys launched an Open Season for the capacity between Belgium and the Grand Duchy of Luxembourg. In this context, the capacities reserved as of 2015 are in line with expectations and will give rise to limited investments.

- **Development of supply/demand balance**

Electricity

The sharp fall in the demand for electricity in Belgium in 2009 compared with 2008 and the increase in installed capacity created generating margins that enabled the Belgian system to re-establish a position on the international market. The recovery that began in 2010 caused these margins to narrow. Belgium therefore moved from being a net importer of 10,620 GWh in 2008 to being a net exporter of 1,835 GWh in 2009, and back to being a net importer of 600 GWh in 2010.

Natural gas

In 2010, total natural gas consumption amounted to 214.7 TWh, which represents a considerable increase (+10.6 %) compared with consumption in 2009 (194.2 TWh). This increase is due entirely to the strong recovery in industrial demand for natural gas (+19.7 %), which has returned almost to the 2008 level of consumption, and to a considerable increase in consumption on the distribution networks (+15.5 %).

Overall, the individual supply portfolios of the various natural gas suppliers lead to differentiated supply depending on the type of contract. The share of long-term contracts concluded directly with the natural gas producers fell from 71.3 % in 2009 to 60.3 % in 2010, but still constitutes the main component. A shift towards supplies on the wholesale market was observed in 2010.

The growth in demand in Belgium is mainly covered - at least contractually – by the increasing imports of Russian natural gas, while the share of Norwegian natural gas contracts is stagnating and that of British natural gas continues to decline. The role of LNG in covering demand is more difficult to estimate as it depends on additional investments in the LNG terminals. Nevertheless, the Zeebrugge LNG terminal already plays a major role in supplying Belgium, at least in the context of additional deliveries during peak consumption periods. Although the 2009 natural gas crisis between Russia and Ukraine did not disrupt the natural gas market in Belgium, it is recommended that Belgian energy policy follows this issue closely and develops appropriate regulations for the benefit of security of supply.

- **Diversification of sources and routes**

Electricity

In 2010, nuclear-generated electrical power accounted for 53 % of the total electrical power generated in Belgium. The share of electrical power generated using natural gas as the primary fuel amounted to 30 %. In terms of capacity, nuclear energy and CCTG and natural gas turbines accounted for almost 37.5 % and 27.2 % respectively of the total installed capacity at power stations connected to the Elia grid in 2010.

Natural gas

LNG supplies, mainly from Qatar, via the Zeebrugge terminal accounted for 6.2 % of Belgian natural gas consumption in 2010, compared with 9.0 % in 2009. With a share of 46.5 %, Zeebrugge has once again confirmed its position as the gateway to the Belgian market.

For the L-gas market, we observed fairly significant backhaul supplies from Blaregnies (4.9 % in 2010 compared with 2.6 % in 2009) on transit flows initially intended for the French market. The forecasts made by the CREG in 2009 continue to apply.

Natural gas suppliers operating on the Belgian market have a differentiated supply portfolio in which the long-term contracts concluded directly with natural gas producers constitute by far the biggest element. Obtaining supplies via the wholesale market is an option chosen mainly by the new natural gas suppliers who have few if any direct purchase contracts with natural gas producers. An analysis of the supply portfolios of importers (existing and new) points to an upward trend in supplies via Germany (through Eynatten) and the Netherlands (through ’s Gravenvoeren and the new physical entry point in Zelzate). In fact, there are bidirectional connections with the Netherlands, Germany (and the United Kingdom), but not with France. Physical imports from France are not possible at the moment. To do this, the Blaregnies/Taisnières interconnection point will have to become a physical entry point for the Belgian market and a deodorisation unit will have to be built on the French side. The forecasts regarding the choice of entry points tally with the grid reinforcements planned by 2020. Even then, substantial entry capacity available in Eynatten and Zelzate should enable increased supplies via these points.

VIII. Regulation/Unbundling

- **CREG**

During the year 2010, the chairman, three directors and sixteen members of staff of the CREG were appointed inspectors as officers of the judicial police. They are charged with seeking out and noting infractions of certain provisions of the Gas and Electricity Acts and of the relevant implementing decrees across the territory of Belgium.
In addition, in an interlocutory judgement (judgement No 130/2010 of 18 November 2010), the Constitutional Court stated that the lack of hierarchical control or administrative supervision over the CREG is not contrary to the Constitution to the extent that the CREG is an administrative authority with a considerable degree of autonomy and is, furthermore, subject to both jurisdictional and parliamentary control.

- **Role of transmission grid operators on the markets**

Electricity

On the Belgian electricity market, the functioning of the exchange is regulated by the Royal Decree of 20 October 2005 on the creation and organisation of a Belgian energy blocks exchange market. Article 6 of this decree describes in particular the behaviour and responsibilities of the market operator and the transmission grid operator if the market is coupled to similar markets. In practice, Elia and Belpex use this Article 6 to the extent that the day-ahead capacity on interconnections with the Netherlands and France is implicitly auctioned on the Belpex day-ahead market. For annual and monthly capacities, the capacity on the interconnections concerned is auctioned explicitly.

Natural gas

On the natural gas market, the functioning of the hub and the exchange is organised by the Huberator and APX entities, which are not regulated. The transmission grid operator, which is regulated, does not have a specific role to play on these markets. It is a member of the market, in the same way as other parties, to obtain natural gas supplies in line with its own needs.

- **Development of unbundling of transmission grid operators**

The electricity transmission grid operator (ELIA)

On 31 March 2010 the Elia Board of Directors approved the agreement concluded between Elia, Publi-T and Electrabel/GdF/Suez on the terms and procedures for the withdrawal of Electrabel from the capital of Elia. Under the terms of this agreement, Electrabel has sold 12.5 % of the capital of Elia to Publi-T, bringing Publi-T's holding in the capital of Elia to 45.37 %.

The natural gas transmission grid operator (FLUXYS)

Further to a law of 10 September 2009, in March 2010 GdF Suez and Publigaz concluded an agreement on the transfer to Publigaz of the entire holding of Electrabel in Fluxys (38.5 %). The transaction was effected on 5 May 2010. Further to this transaction, Publigaz's holding in Fluxys has increased to 89.97 %, while the GdF Suez group has withdrawn entirely from the capital of Fluxys.