

Review of the Security of Gas Supply Regulation – ITRE Committee and Energy Council opinions released in Q4 2016

A EURELECTRIC position paper

January 2017

EURELECTRIC is the voice of the electricity industry in Europe.

We speak for more than 3,500 companies in power generation, distribution, and supply.

We Stand For:

Carbon-neutral electricity by 2050

We have committed to making Europe's electricity cleaner. To deliver, we need to make use of **all low-carbon technologies**: more renewables, but also clean coal and gas, and nuclear. Efficient electric technologies in **transport and buildings**, combined with the development of smart grids and a major push in **energy efficiency** play a key role in reducing fossil fuel consumption and making our electricity more sustainable.

Competitive electricity for our customers

We support well-functioning, distortion-free **energy and carbon markets** as the best way to produce electricity and reduce emissions cost-efficiently. Integrated EU-wide electricity and gas markets are also crucial to offer our customers the **full benefits of liberalisation**: they ensure the best use of generation resources, improve **security of supply**, allow full EU-wide competition, and increase **customer choice**.

Continent-wide electricity through a coherent European approach

Europe's energy and climate challenges can only be solved by **European – or even global – policies**, not incoherent national measures. Such policies should complement, not contradict each other: coherent and integrated approaches reduce costs. This will encourage **effective investment** to ensure a sustainable and reliable electricity supply for Europe's businesses and consumers.

EURELECTRIC. Electricity for Europe.

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KEY MESSAGES

Regional cooperation

-) Regional cooperation as a way of addressing gas security of supply issues should be defined in a way that ensures transparency and operability, as well as consistency with electricity regional adequacy assessments.
-) Should the regional cooperation be defined on a risk-based approach (*cf.* option B¹), EURELECTRIC considers that the following requirements have to be met to ensure a successful and reliable process:
 - a clear and comprehensive set of regional groups has to be defined and publicly known, ahead of the delivery of the national plans;
 - methodology principles for setting such groups have to be clearly defined and should be uniformly validated throughout the European Union;
 - each group defined for a given risk should be of a limited size;
 - gas and electricity TSOs need to align their emergency plans in a cross-commodity approach, by integrating concerns related to electricity adequacy in each gas regional group.

Communication of contractual info

-) The reporting requirements should be limited to consistent and light-touch obligations and the protection of commercially sensitive information must be ensured. As the analysis of security of supply risks require physical data and not contractual information, the automatic notification of individual supply commercial contracts is not justified. The disclosure of renegotiation conditions of gas deliveries and of contract prices would be an undue intrusion into commercial arrangements and are not relevant to assess the situation of security of supply (SoS).
-) With regard to the SoS objective pursued, proportionality of reporting obligations should be ensured to limit the administrative burden. Therefore, option B as proposed by the Presidency in its Discussion note¹ for reporting obligations should be rejected. EURELECTRIC considers option A as a reasonable compromise.

Solidarity

-) The increasing interdependency between gas and electricity sectors requires that, before triggering a gas solidarity mechanism, key gas-fired plants are identified on a case by case basis to ensure the operational functionality of power systems. This identification should be done under harmonized rules. It should take into account the technical and/or market constraints and actual conditions prevailing at the time of the emergency. Solidarity provisions included in the EU gas SoS regulation should be limited to high-level principles and key concepts. Therefore, EURELECTRIC welcomes the option B for the implementation of solidarity as proposed by the Presidency in its discussion note¹.

WG Gas to Power

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¹ Discussion note from the Presidency dated as of 25 November 2016 for the TTE (Energy) Council of 5 December 2016:
<http://data.consilium.europa.eu/doc/document/ST-14874-2016-INIT/en/pdf>

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1. Context

The revision of the Regulation on the measures to safeguard the security of gas supply and repealing Regulation N°994/2010 was one of the topics at the top of the agenda for European stakeholders over the last quarter of 2016.

Significant progress has been accomplished on this file in the last months: the ITRE Committee of the European Parliament adopted its report on the proposal for a revised regulation on 13 October. This was followed by several draft proposals from the Presidency of the Energy Council, resulting in a revised compromise version proposed by the Slovakian Presidency on 21 November. Based on this preparatory work, the Presidency submitted a discussion note on 25 November, as guideline for the policy debate of the Energy Council held 5 December.

Following the Energy Council debate, a new proposal of compromise was released by the Presidency on 8 December, as input for the discussions leading to the Trilogue process to be launched under the Maltese Presidency from January 2017.

In this context, this response paper intends to share EURELECTRIC's position on the 3 key topics discussed within both ITRE Committee and the Energy Council over the recent weeks, for which the Presidency of the Council has requested Member States to choose between two options on regional cooperation, communication of contractual information and on solidarity.

2. Regional Cooperation

The Presidency note discussed during the Energy Council held on 5 December proposed two options for proceeding with the regional cooperation introduced in Article 3 and Annex I of the draft revision of the gas SoS regulation:

- **Option A:** regional cooperation based on core regions was defined in Annex I of the Presidency compromise proposal and complemented by emergency supply corridors defined by ENTSOG;
- **Option B:** regional cooperation built on risk-based groups and agreement between concerned MS on measures to address specific risk.

The MS debate allowed the Council to reach a broad agreement on option B, taking into account the main transnational SoS risks and enabling agreement on possible cross-border measures. Each MS would be requested to prepare national plans including regional chapters with possible cross-border measures to be agreed within the group set per source of relevant risk. The Presidency also emphasized that ensuring operability of such regional groups is key.

As mentioned in its response paper² issued in May 2016, EURELECTRIC is in favour of regional cooperation based on a bottom-up approach, where joint risk assessment and preventive and emergency plans will complement the existing national frameworks without replacing them. Regional allocation should be based on the physical risks for gas SoS and not on the homogeneity of gas markets. Furthermore, an upfront coordination between TSOs (both gas & power) is of utmost importance to ensure a successful regional approach.

Should the risk-based approach of option B be confirmed as outcome of the Trilogue process, EURELECTRIC considers that the following requirements have to be met to ensure a successful and reliable regional cooperation:

² www.eurelectric.org/media/278454/eurelectric_position_paper_-_security_of_supply_package-2016-2250-0006-01-e.pdf

- **Transparency:** as option B would potentially lead to different regional allocations of countries (one group per risk factor), **a clear and comprehensive set of regional groups has to be defined and publicly known, ahead of the delivery by MS of the national plans** (regional chapters included). The **methodology principles for setting such groupings should also be clearly defined and uniformly validated throughout the European Union**. For visibility purposes, any stakeholder should notably be guaranteed that each MS is included in a group, for any of the risks identified, avoiding situations of “double counting” or “orphan MS”. Such transparency is key given that option B would not allow anymore the definition of explicit regional plans (which was one of the initial objectives of the Commission).
- **Operability: each group should be of a limited size**, to ensure proper and manageable coordination among national authorities in tackling the tasks to deliver risk assessment and plans. This is of utmost importance, as each regional chapter included in emergency plans will result from outputs of various geographical groups.
- **Consistency with electricity regional adequacy assessments:** whereas each group should be reflective of the various gas SoS risks, the increased interdependency between gas and electricity requires a **close coordination between gas and electricity TSOs. Both TSOs need to work on aligning their emergency plans in a cross-commodity approach**, by integrating any electricity adequacy issues related to each “gas-risk” group defined and in a coordinated manner.

3. Communication of Contractual Info (Article 13)

Market participants understand European Commission’s (EC) willingness to have access to relevant information on supply sources for its analysis on the state of Europe’s security of gas supply. While the EC confirmed during the Madrid Forum held in October 2016 that it intends to limit the scope of contracts that need to be captured and that it is not a “*fishing exercise*”, EURELECTRIC wants to draw the attention of the EC, the European Parliament and the Council to the importance of a careful definition of Article 13 in order to avoid disproportionate or inefficient provisions.

The sufficient availability of gas to meet the current and future demands of CCGT power stations is as crucial as the competitiveness of gas. To this respect, the **introduction of consistent and light-touch reporting obligations and the protection of commercially sensitive information will ease the functioning of the internal market**. It will also support fostering relations with multiple suppliers (within and outside Europe), resulting in an increasing competition on the European market.

Therefore, EURELECTRIC considers that the provisions of the Article 13 - as voted in October by the ITRE Committee - were excessively stringent compared to the first proposal of the EC and are not fit for purpose. **EURELECTRIC thus welcomes the last proposal of the Council issued on 8 December 2016, which leads to a more balanced and adequate framework when compared with the ITRE proposal**. The Council proposal reduces the scope of application of the reporting mechanism to situations in which supply is at risk. It also gives a less discretionary role to the EC to get access to supply contracts (number of contracts affected) and foresee that information would be sent in aggregated form to the EC. Given the competitive context of electricity wholesale markets and the importance of gas supply contracts in the strategies of plant operators, EURELECTRIC would prefer such approach.

The discussion note submitted by the Presidency on 5 December proposed two options to address the issue of communication of contractual information:

- **Option A:** long term (LT) contracts providing 40% or more of annual natural gas consumption in the MS concerned would be notified to the competent authority. That authority and the EC would also be able to request other information, excluding price information, regarding key gas supply contracts relevant to SoS events if they don't fulfil the 40% criterion;
- **Option B:** all LT contracts or LT contracts exceeding an annual volume threshold providing more than [a much lower than] 40% of the annual consumption of the MS concerned would be notified, while the EC and other MSs would not have the right to request the notification of a contract.

EURELECTRIC rejects the option B proposed and considers option A a reasonable compromise to be privileged for the reasons described hereafter.

SoS risks analyses require physical data, not contractual information

The key inputs for SoS risks assessments is physical data and not contractual information. This is the reason why Article 6 of the proposed regulation assigns to ENTSOG the task to carry out a Union-wide simulation of supply and infrastructure disruption scenarios, in a similar manner as the stress tests conducted in 2014. ENTSOG simulations will be exclusively performed through physical data (flows) analyses, regardless of their geographical scope (national, regional or union-wide), while any contractual information will not be necessary to carry out such a work.

Therefore, communication of data related to long-term contracts may be irrelevant, notably for contracts delivered in gas hubs within Europe which do not give any information on their physical contribution to SoS. The only contractual data which may be of interest to assess SoS risks are the ones delivered at entry/exit points of the European gas system; any gas volume to be delivered within Europe does not give any information regarding physical SoS, as the seller can arbitrate at any time between importing the gas vs. buying it on a market (*cf.* "make or buy" principle).

Besides, European gas undertakings conclude different types of LNG supply contracts among which some that are not all necessarily supposed to be delivered into Europe since cargoes can be rerouted all around the world. In particular, "free-on-board" (FOB) contracts allow the traded gas to be shipped anywhere in the world and not necessarily to Europe. Such contracts do not bring any kind of relevant information on gas security of supply and should explicitly be excluded from the scope of notification obligations under the new SoS gas regulation.

Reporting obligations should be calibrated to limit administrative burden

Proportionality of measures with regard to the objective pursued. In that respect, obligation to notify non-aggregated details of gas supply contracts with duration of more than 1 year goes far beyond what is necessary for the EC's assessment:

- this would compel natural gas undertakings to disclose their individual contracts if identified as providing more than a certain threshold of gas imports to the MS concerned, **regardless of impact of those contracts on SoS;**
- any threshold should be *ex-ante* settled, the purpose being to assess SoS risks for the future; yet, ensuring the reliability of a predefined split of gas supplies for a given country could be challenging;
- as key data required for assessing SoS risks are physical, communication of aggregated information would be enough to a given region: **automatic notification of individual supply contracts is not justified;**

- gas suppliers are already required to provide commercial, contractual and technical information pursuant to REMIT regulation and Annex I of regulation 715/2009. Duplication of info should be avoided to limit administrative burden and to ensure compliance with principles of better regulation (cf. REFIT programme of the EC).

Reporting obligations should not hamper completion of integration of the European gas market

The evolution towards an increased control by the EC and competent authorities over the actions of gas undertakings appears to be inconsistent with the principles underlying the completion of internal gas markets. **The disclosure of the conditions for the renegotiation of gas deliveries (cf. Article 13, § 6. (a)) and of the price of contracts would be unduly intrusive into commercial arrangements and are not pertinent to assess the situation of security of supply.** In a competitive market, protection of commercially sensitive information is of utmost importance for all European stakeholders.

4. Solidarity

The discussion note submitted by the Presidency on 5 December proposed two options for tackling the question of the solidarity mechanism introduced in Article 12 of the draft revision of the gas SoS regulation:

- **Option A:** solidarity together with a mechanism for compensation is defined in detail and fully harmonized across the EU in the text of the regulation;
- **Option B:** general principles regarding compensation are defined in the text of the regulation while allowing MSs to take into account their specific national situation and possible different approaches to calculate compensation. The EC would elaborate guidelines in close cooperation with MSs and relevant stakeholders.

Alike the opinion expressed on 5 December by the majority of MSs, EURELECTRIC welcomes the option B as proposed by the Presidency of the Council.

Setting a European high-level regulatory framework, based on general rules and key principles for solidarity mechanism implementation, seems appropriate considering the various situations and contexts among the 28 MSs in terms of gas and electricity disruptions risks.

As stated in its papers issued in May³ and October⁴ 2016, **EURELECTRIC considers that solidarity provisions included in the EU gas SoS regulation should be limited to high-level principles and key concepts.** Due to the increasing interdependency between variable renewable power generation and the potential role of gas-fired power plants for backup providers, any disruption of natural gas supply could lead to potential spill-over effects on power systems and electricity supply and should be integrated in the definition of solidarity mechanisms implemented. Therefore the identification of key gas-fired power plant to ensure the operational functioning of power systems should be undertaken on a case-by-case basis taking into account any technical and/or market constraints and conditions prevailing at the time of the emergency, under harmonized rules.

In this context, EURELECTRIC underlines the importance that, before the potential triggering of solidarity mechanisms, emergency plans define the responsibilities of both natural gas undertakings and industrial gas customers (electricity producers included), as well as the technical, commercial, legal and financial arrangements to appropriately compensate market operators delivering that solidarity. Any potential

³ http://www.eurelectric.org/media/278454/eurelectric_position_paper_-_security_of_supply_package-2016-2250-0006-01-e.pdf

⁴ http://www.eurelectric.org/media/291963/eurelectric_position_paper_-_gas_sos-2016-2250-0009-01-e.pdf

induced extra costs should also be included in the solidarity mechanisms principles, ensuring that a MS called to apply the solidarity principle will not bear all the costs associated with the triggering of the solidarity mechanism by another MS.

Moreover, each MS should be able to demonstrate its best efforts before calling for solidarity to its neighbours. As different approaches could lead to different views on an emergency situation, a monitoring system should be implemented to ensure a level playing field between stakeholders in tense situations.

EURELECTRIC pursues in all its activities the application of the following sustainable development values:

Economic Development

▶ Growth, added-value, efficiency

Environmental Leadership

▶ Commitment, innovation, pro-activeness

Social Responsibility

▶ Transparency, ethics, accountability



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