Gas Transmission Europe

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GTE Comments

Commission's Proposal for a Directive concerning measures to safeguard Security of Natural Gas Supply referenced COM (2002) 488 and dated 11 September 2002

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Introduction

1. GTE has recently adopted a report on security of supply, which sets out the issues relating to security of supply from a gas transporter's perspective and contains a number of recommendations. In our view this report should serve as an input for further discussions with the Commission and the other interested parties on the issue of security of supply. In the present paper, GTE sets out its main views on the Commission's proposal.

2. It is GTE's view that a clear and transparent framework should be developed in each Member State to ensure adequate capacity booking are made in national networks with a view to securing supplies under both average and extreme conditions. The provisions of the proposed amendments to the Gas Directive 98/30 give a sound basis for the implementation of this framework at national level.

3. The Commission's proposal addresses certain issues identified by GTE. However it also contains a number of recommendations or requirements that could seriously affect the operation of the internal gas market as well as the cost of services.

GTE report on Security of Supply

4. GTE set out its views and issued a paper defining the main aspects concerning security of supply, the main roles and responsibilities of the TSO's and other market players, as well as number of recommendations. The key requirements to ensuring security of supply according to this report are:

   - A clear and stable framework that encourages adequate investment in existing and new gas transportation infrastructure;
   - Maintaining adequate levels of resilience in gas networks;
   - A clear definition of roles and responsibilities in maintaining the security of gas supply.

   Some of the most important recommendations in the GTE paper are:

   - To develop a clear, stable and transparent framework at the national level to ensure sufficient capacity is in place and adequate capacity bookings are made taking into account relevant interconnections;
   - Such a framework should ensure that the demand for normal and severe weather conditions are revealed and contracted by the network users according to the requirements of their customers;

- To create and maintain a healthy network investment climate by ensuring that transporters are adequately rewarded for investing in new and existing infrastructure;
- To recognise the importance of long term contracts, which have been a significant factor in the stability of investment in capital intensive gas infrastructure projects and which shall continue to play a key role in the future;
- To allow for adequate incentives for transporters to maintain system integrity and for shippers to balance their supply and demand portfolios.

The proposals for amending the Gas Directive 98/30

5. GTE recommendations addressed in the above mentioned report may be effectively implemented and monitored in each Member State on the basis of the latest proposals for amending Directive 98/30. This Directive contains appropriate provisions for both the Member States and the Commission to address issues of Security of Supply, e.g. the following Articles explicitly refer to security of supply:

   - Art. 4 - The possibility to set standards through licensing and authorisations (for suppliers and TSO's
   - Art. 5 - The security of supply monitoring by Member States and report to Commission;
   - Art. 26 - In a crisis Member States may take necessary safeguard measures.

Subsidiarity

6. GTE supports the principle of subsidiarity because considerable differences between Member States concerning geological and market circumstances in Member States uniquely affect the functioning of the gas systems and consequently also Security of Supply. The variation in carriage terms and security of supply measures, which characterise the way in which the gas sector is organised in the individual countries reflects not only the different physical design models and supply portfolios within the gas industry itself, but also different emphases within the national energy policies of the Member States and substantial differences in infrastructure development and market structure. This should be taken into account if market distortions are to be avoided.

Madrid Process

7. In the past years the Commission, CEER, GTE and other market participants such as network users and traders have made significant progress in the Madrid Forum in shaping practical Guidelines for Good Practice, in particular with respect to capacities and allocation as well as further development of the roles and responsibilities of market participants. GTE believes that the functioning of the gas market as well as Security of Supply is enhanced by the progress of the Madrid Forum and is of the opinion that the Madrid Forum, involving all market players, makes a significant contribution to improving the liberalisation of the EU-gas market and Security of Supply.

GTE comments on the Commission's proposal for a Directive on Security of Supply

8. The proposed Security of Supply Directive addresses a number of relevant issues. However, some proposals may have a potentially negative effect on the functioning of the internal gas market and the cost of gas supplies (inter-fuel competition). GTE comments address the main priorities which should be taken into account. These are:

   - In principle, GTE recognises the need for security output standards. Wherever such standards are set they should reflect the existing high standards of supply security. However, GTE believes that the need for *harmonised* output standards has to be discussed and analysed further taking into account national specificities.

   - A decision over the means of delivering security standards should be entirely left to market forces. Market forces should also be entirely responsible for the diversification of supplies, indigenous production and national / cross-border co-operation between the gas undertakings including co-operation with the producers.

- GTE is opposed to any minimum storage obligations for gas transmission companies as indicated in Art. 4.5 and 4.6 which clearly go beyond outputs and tentatively prescribe the mean whereby insurance is to be achieved.

- Commingling the measures taken by market participants to ensure security of supply in one Member State with obligations imposed on that market participant in another Member State as proposed in Art. 4.7 may lead to market distortion in that Member State. In GTE ‘s view the provision of Art. 4.7 should therefore be reconsidered.

- Reference is made in Art. 8 to extraordinary gas supply situations. There is no clear definition of these situations. GTE is of the opinion that in case of extraordinary situations, procedures based on the co-operation between gas undertakings and Member States are preferable to a centralised crisis mechanism as proposed by the Commission. GTE is willing to work on the definition of these extraordinary situations which could not be managed by the gas transmission industry and on an adequate co-operation mechanism.

- GTE is therefore of the opinion that the present provisions in Art. 8 go too far. For example Art. 8.2 (conferring the power to the Commission to issue legally binding decisions in the case of emergency) directly affects the practicality of managing the networks, the sanctity of contracts and the sovereignty of transmission companies over their assets. GTE further believes that the market will deliver adequate solutions in the case of supply emergency, given a clear distribution of roles and responsibilities amongst market players. The above mentioned GTE report on Security of Supply attempts to clarify some of these roles.

- It should be clearly recognised that security of supply is delivered at a price. There is no provision in the Directive stating that where new obligations are put on TSO’s these shall be able to recover the costs or to charge market based prices for any new obligations under the Directive. This is essential if distorting effects on competition (incl. inter-fuel competition) shall be prevented and a healthy investment climate is to be maintained.

- The exemption for new entrants could give rise to major uncertainties regarding new requirements for network investment and would have distorting effects on competition in a liberalised market.

- The target group to be protected as defined in Art. 4 is defined as “non-interruptible customers without fuel switching capabilities”. This is a very broad category of customers and is not reflective of the fact that in a liberalised market security of supply will be a competitive element in the contracts along the gas chain. The proposed definition should be clarified and investigated with all interested parties.

- The concept of the single largest gas supply country should be amended since it cannot be applied in Member States which produce most of their domestic gas consumption. It does also not recognise the already existing diversification of export routes from single supply sources (e.g. Norway, Russia, Netherlands, Algeria). Moreover it could have potential distortive effects within the EU.

- GTE welcomes the emphasis on the importance of long-term contracts as a significant element in signalling network investment needs. However, the definition of ‘long-term’ as a minimum of 1 year is absolutely inadequate taken into account the lead time for investment in new and existing infrastructures. Also, GTE believes that it would be inappropriate to prescribe the level of long-term commitments that each Member State has to have in place. It should be left to the market to determine the appropriate balance between short- and long-term commitments.

Annex *GTE report on security of supply*