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GIE Response to Commission's Strategic European Energy Review

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1. Introduction

1.1 GIE welcomes the Energy Package published by the Commission on 10 January. Whilst this response will focus on the Energy Package elements associated with the development of the EU internal gas market, GIE also endorses the Commission's initiatives on sustainability and security of supply.

1.2 GIE regards the Energy Package as an important milestone in the development of a single European gas market. We now need to deliver a timely consensus amongst all stakeholders, most notably Member States, on the way forward. Whilst some changes will require legislation in order to provide the necessary consistency at a European level, we believe that much can be done in shorter timescales than are necessary for legislative changes.

1.3 GIE is committed to the single European market and is well positioned to play a comprehensive enabling role to realise both short term opportunities and the development of any legislative proposals that might be necessary to deliver the single European market.

1.4 In the following paper paragraphs 2, 3, 4 and 5 are related to transmission, paragraph 6 focuses on LNG, paragraph 7 on storage views.

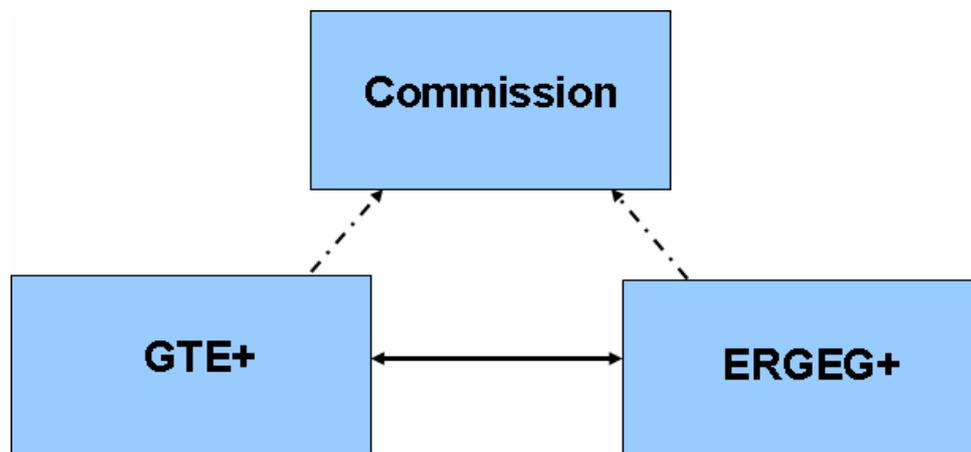
Transmission focus:

2. Overall Framework

2.1 It is of fundamental importance to establish how the proposed bodies, ERGEG+ and GTE+, will co-operate and interact with other institutional bodies and stakeholders. The objectives of these organisations should be aligned and reflect genuine market needs. As European market liberalisation gains pace, the needs of network users and consumers will change and therefore the framework that is to be established must enable timely response to customer and consumer requirements; the framework itself must not become an obstacle to the liberalisation process. Therefore, we should endeavour to develop rules that can be adapted and developed in a timely manner. Only where we must ensure sufficient consistency across the European Union should we resort to primary legislation.

Gas Infrastructure Europe - GIE represents the interest of the infrastructure industry in the natural gas business such as Transmission System Operators ("TSOs"), Storage System Operators ("SSOs") and liquefied natural gas Terminal Operators ("LNG TOs"). GIE has currently 57 members in 27 European countries. GIE is based on three columns – GTE - Gas Transmission Europe, GSE - Gas Storage Europe and GLE - Gas LNG Europe.

2.2 As a vehicle for promoting timely and effective delivery of the Energy Package we propose the model shown below. The model would retain the current framework for creating and amending existing legislation i.e. via the Commission either through co-decision procedure or comitology. It creates two formal bodies, GTE+ and ERGEG+, which would agree rules and procedures at a European level to be implemented nationally. The area of application of the rules and procedures would need to be carefully defined, with the overriding factor being to ensure that gas can move freely between countries and regions. In the following sections we will talk about the proposed roles and responsibilities of each of these organisations, but first we will elaborate on the interaction between the two bodies and stakeholders.



2.3 Both GTE+ and ERGEG+ would be accountable to the Commission. Each body would be assigned clear roles and responsibilities (an initial formulation is proposed below). The activity and outputs of each body would be based on robust stakeholder consultation. At the end of each consultation the responsible body would pass a decision on the measures to be implemented. In the case of GTE+, it would be intended that at this point ERGEG+ provides its approval for the measures or ask GTE+ for a new proposal. In all cases, proposals should be consistent with the outcome of the market consultation process. The responsibility for implementation would then be with the national TSO and regulatory authority. In some cases, such as for cross-border investment, this might not only be a national issue, but may require the participation of all the relevant TSOs and regulatory authorities.

3. Establishment of a formal TSO body

3.1 GIE welcomes the EC proposal to establish a formal TSO body, GTE+. The primary GTE+ objective would be to facilitate the creation of the single European market, whilst respecting the subsidiarity principle. The organisation should work to ensure that any barriers to the free movement of gas throughout Europe are removed.



3.2 To achieve this, the organisation would need to perform several key tasks including:

- **Convene network user forum**

GTE+ would convene a consultation forum that would be representative of network users and the wider market. This forum would ensure that the organisation is accountable to users, both for the activities undertaken and the measures implemented.

- **Co-ordination of investment and network planning**

Without sufficient investment in the EU gas transmission system it will not be possible to deliver an efficient and fully functioning single European market. Therefore it is essential that GTE+ produces a consolidated long term report of the existing, committed and required capability of the EU transmission system¹. This would be the subject of consultation with network users and other bodies in order to reveal where there may be a need for additional network capabilities to better facilitate the market and/or contribute to Security of Supply across the EU. However, the final investment decision would remain a matter for the relevant TSOs in the context of the national Regulatory framework.

- **Review and develop existing access conditions**

The Internal Market Directive 2003/55 and the Gas Regulation 1775/2005 together provide the overall framework for access to the transmission system. In addition we have a number of Guidelines for Good Practice in development, as well as the Commission's explanatory notes. GTE+ would use these policy documents as the starting point for the further development of network access conditions based on consultation process.

- **Define network operational rules**

Over 60% of all EU gas flows cross more than one EU border and in the gas sector there have not been any major incidents of supply disruption as a result of transmission network operation. However, the ability to promote efficient cross-border flows would also better facilitate the single European market. GTE+ would seek to continue to improve the interoperability of networks and would work with users and other stakeholders, e.g. Member States, to make the operation of the EU transmission system as seamless as possible from a user perspective.

- **Establish single transparency platform**

Information access and transparency are the lifeblood of a competitive market. Several transmission networks are already delivering a high level of transparency, however, for a single European market to evolve this degree of transparency needs to transcend national and network borders. GTE+ would establish a single transparency platform that would enable users to have a complete picture of the EU transmission system.

3.3 GTE+ should include all EU TSOs and as such its initial focus should be transmission issues.

¹ The meaning of the EU Transmission System needs to be defined but it should be based on cross-border/cross-TSO capacities.



4. Regulatory Framework and Powers

4.1 GIE supports the Commission's call for national regulatory authorities to have a more European perspective. GIE supports the development of ERGEG to ERGEG+, comprising representatives of all EU National Regulatory Authorities (NRAs).

4.2 ERGEG+ should promote European regulatory coordination to facilitate timely investment, whilst ensuring adequate EU consumer protection and compliance with the EU legislative framework. A key objective would be to deliver a regulatory framework that is stable, predictable, commensurate and complete.

4.3 To achieve these objectives ERGEG+ would need to perform several key functions:

- **Compatibility and Coordination of European Regulatory Practice**

The body should work towards ensuring that regulatory regimes are compatible across Europe and that NRAs act in a co-ordinated manner and do not distort gas infrastructure competition. This is likely to be critical when dealing with cross-border issues, particularly investment and other areas where material financial commitments are required.

- **Monitor Compliance with Rules**

Whilst GTE+ should be responsible for the development and implementation of the network access and operation rules ERGEG+ should ensure compliance with these rules with enforcement via the National Regulatory Authority members.

4.4 GIE supports the requirement for European coordination of regulators through the establishment of ERGEG+ to ensure a coherent regulatory environment across Europe consistent with removing all artificial barriers to trade between countries.

5. Investment

5.1 The recurring theme of the importance of the investment infrastructure priority in the Energy Package is welcomed. This is of fundamental importance at a time when an estimated 200 billion Euros of new infrastructure is required by 2030. Improvements to the current European regulatory framework could enhance security of supply and better facilitate the delivery of the single European market.

5.2 Specifically GIE welcomes the proposals to clarify the process for granting article 22 exemptions, however whilst clear rules and procedures for exemptions are useful, the development of a stable and transparent framework for "regular" investment is crucial.

5.3 The lack of both TSO and especially regulatory cross-border coordination and cooperation jeopardizes investments that would confer security of supply and single European market benefits. GIE is currently developing proposals for investment principles with the aim of fostering a suitable environment for investment both within and between Member States.

5.4 GIE welcomes the Commission's proposals regarding the streamlining of authorisation procedures and believes there is merit in considering the introduction of



coordinators to facilitate investment projects. GIE would like to contribute to this process, by identifying which newly conceived investment projects beyond Nabucco should be considered for European coordinator attention.

6. LNG

6.1 LNG is playing a significant and increasing role in the European gas market. It is expected that by 2010 more than 150 bcm of LNG will enter into the EU through LNG regasification terminals.

6.2 LNG is likely to play a key role in the terms of security of supply, supply diversification and further development of the competitive internal market for gas in the EU, although the impact of LNG varies across regions.

6.3 In a fast growing European LNG market, new and timely investments are necessary. This requires that the right incentives for investments in both new plants and extensions in existing ones are in place. A fair and stable regulatory framework is highly desirable to foster the investment climate and for Europe to be attractive as a natural gas market.

6.4 Application of Article 22 of the Second Gas Directive may foster the investment climate but when exemptions are granted, these should not be detrimental to the effective functioning of the internal gas market and intake into account the interests of existing LNG terminals subject to rTPA.

7. Storage

The members of GIE which are involved in storage activities welcome the Commission's Strategic EU Energy Review. Gas storage has an important role to play in achieving secure, sustainable and affordable energy for Europe and is pleased to offer the following comments and recommendations on a number of the issues raised in the proposed Action Plan.

- **Strategic stocks**
When considering strategic gas stocks as one of the possible options to promote energy security, the Commission should safeguard that emergency gas stocks do not distort the commercial storage market, as this would be detrimental to the investment climate.
- **Article 22 exemptions**
Exemptions under Article 22 help to facilitate necessary new investments and have a positive effect on developing a competitive market for gas storage. GSE welcomes the consideration of guidelines for the review of all major new infrastructure exemption applications that give greater certainty to potential investors without reducing current incentives.
- **Investment climate**
GSE welcomes the Commission's intention to find a balance between regulation and the investment climate for storage. Measures to increase access to storage that dampen investment confidence should be avoided.
- **Unbundling**
GSE is of the opinion that the implementation of the Guidelines for Good Practice for Storage System Operators (GGPSSO) ensures equal treatment of storage users and gives proper investment signals. The need for legal unbundling, which



adds an unnecessary administrative burden, is negated by the implementation of the GGPSSO.

- **Binding regulation**

GSE reaffirms its commitment to ensure full implementation of the Guidelines for Good Practice of Storage System Operators. In considering transformation of the GGPSSO into binding regulation, the Commission should remain within the scope of the original GGPSSO, as agreed by all stakeholders.

8. Conclusions

8.1 The European gas market has reached a defining moment, the pace of change is increasing and it is beneficial that this continues; there is no turning back from market liberalisation. The actions and commitments of all stakeholders over the coming months will establish the potential and time needed to reach a fully functioning single European market.

8.2 GIE welcomes the Commission's Energy Package and in this response has outlined the Association's views on how the formation of GTE+ and ERGEG+ could contribute to the Commission's goals.

8.3 GTE is well placed to rise to the significant challenges ahead and would emphasise that we should focus on the actions we can take in the short term as well as focussing on longer term changes particularly to the legislative framework.

8.4 GTE has established four proactive work groups: investment, transparency, capacity and interoperability. These groups have already begun to develop many of the elements we have proposed to ascribe to GTE+, such as a transparency platform and increased compatibility of capacity products.

8.5 GIE would like to conclude by re-iterating our commitment to play a leading role in the creation of the single European market. We look forward to engaging in further debate with the Commission and other stakeholders to agree the necessary steps to deliver the Energy Package.