Improvements to EU Gas Security of Supply Legislation

EFET[1] Response to the European Commission

Competitive markets help to maintain secure supplies because the gas flows respond to price differentials as far as physically and economically possible. However, the efficient provision of secure gas supplies in a competitive market requires the highest levels of transparency regarding the Transmission System Operators' (TSOs') forecast demand for gas, the available gas supply, and the use and availability of gas infrastructure. The provision of this information and the use of this information for making decisions about supply emergencies needs an appropriate level of consistency across connected TSO systems and connected Member States.

Barriers to the flow of gas between Member States only exacerbate supply disruptions and must be avoided. As all Member States have some dependence on imported gas, a supranational or regional approach is appropriate, and would help deal with local supply emergencies before they ever arise.

There are also problems that, with goodwill, could be resolved in the short-term. In particular Member States should repeal legislation that prevents the well-functioning of the market, and TSOs should establish more consistent operation of connected networks.

EFET therefore recommends improvements in three aspects of EU Gas Security of Supply Legislation.

1. Information provision by Infrastructure Operators

To enable the market to respond correctly to the potential or actual emergency situation, the infrastructure operators must provide at least the following information:

- TSO daily load forecasts of internal and external gas demand on their system, and the level of interruption available to the TSO.
- TSO daily supply forecasts of aggregate nominated supplies.
- TSO daily statements of any capacity limitations included in the supply forecasts.
- Daily data from LNG and Storage Operators on gas in store and site delivery potential.
- Immediate updates if there is a change that might lead to an emergency declaration or the end of an emergency.

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[1] Established in 1999, the European Federation of Energy Traders (EFET) is an industry association representing over 90 trading companies operating in more than 20 countries.
The EFET mission involves improving conditions for energy trading in Europe and fostering the development of an open, liquid and transparent European wholesale energy market.
More information about EFET views and activities is available on www.efet.org.

If each TSO is providing information regularly on the level of supply margin and likelihood of interruption on their network then, even in parts of Europe where the traded market is not yet developed, there is both a better chance that supply disruptions can be avoided, and everyone will be better prepared if an emergency did have to be declared.

Provision of information about the availability of pipeline, storage and LNG capacity, as well as this supply and demand information, should continue in all situations.

2. Emergency declaration and Government intervention

Decisions to declare an emergency for the purposes of the Security of Supply Directive should be based on objective criteria related to the information published by the TSOs. It is questionable whether a purely national emergency declaration can be appropriate or helpful in a European market. We need to find a mechanism in which an emergency declaration and any measures are decided and coordinated on the appropriate regional or EU level from the outset.

- What constitutes an emergency situation must be clearly defined in advance and be consistent between adjacent TSOs. One suggestion for consideration could be:
    - An emergency procedure shall be initiated if the firm demand forecast for the affected TSO system(s) exceeds the maximum forecast *(i.e. not just nominated quantities*) aggregate supply from all pipeline, LNG, storage and other sources within the affected transportation system(s) to such an extent that the pressures in the TSO system(s) would fall to unsafe levels.
    - The declaration of an emergency situation shall not take place if the continued operation of the traded market would be reasonably expected to keep the pressures in the TSO system(s) safe.
    - The decision to declare an emergency shall be subject to checking, at least after the event, by ACER to ensure that adequate consultation took place and that every chance was given for the market to help provide sufficient gas.
- The steps to be taken in an emergency procedure must be known in advance to market participants, in particular the point at which a market would be suspended.
- National measures should be designed to encourage the efficient working of the market so that gas is able to reach the areas to greatest need.
- The steps of an emergency procedure should include compensation provisions, for example in the event of Government intervention.

Where there is a very limited number of supply options, or before sufficient investments (interconnections etc…) have been made to integrate the market, Government might be tempted to seek additional national provisions (e.g. strategic gas stocks) with the best intentions to maintain supplies for their citizens. The implementation of such measures might be counter-productive, either through discouraging further investment in regulated pipeline interconnections or in new commercial storage or through causing a knock-on

effect through isolating part of the European market at the very time that mutual support is needed.

Commercial storage can make an essential contribution to satisfy security of supply requirements in a well-integrated European market. In contrast we have not seen any evidence that strategic gas stocks within Europe are a sensible economic option from a national perspective, let alone a European one.

Two brief examples of national approaches that are not in the European interest include the Italian border constraint and the Slovakian storage constraint.

2.1 The Italian border constraint.
Attendees at the gas coordination group meeting on 9 January heard the concerns expressed by the Slovenian representative regarding the implementation during the supply crisis of an Italian regulation that forced the inward flow of gas to Italy. The effect of this regulation appears to be to unduly limit the ability of neighbouring countries to obtain gas even if their relative need is more severe.

2.2. The Slovakian storage constraint
The new (2009) Slovakian law helpfully sets out the Security of Supply responsibilities of all market participants (DSO, supplier, end consumer). The problem is that in an Emergency (as decided by the by Distribution System Operator) the Storage System Operator is obliged to stop deliveries to all market participants whose gas is for customers that are outside Slovakia. Furthermore, compensation appears to be excluded. If this regime had been in place in January 2009 then the impact of the supply crisis on Czech Republic and Austria would have been more severe. The law also introduces additional risks for non-Slovakian EU companies, who, if they continue to book capacity in Slovakia, have to accept a less secure and lower value service. The overall effect is to increase the costs of maintaining supply security in Slovakia as well as potentially reducing security of supply in Slovakia and neighbouring countries.

2.3 National TSO responsibilities
In addition to the two examples above, the gas or energy laws of several other countries can lead to a sub-optimal solution, or unintentionally create problems in a connected country, usually through the responsibilities given to a national TSO. An example of this is in Denmark, where Energinet.dk has both the role of TSO, to transport gas for all customers independent of their nationality, and a role as emergency PSO, who supplies the Danish non-interruptible market with gas in an emergency situation. Gas users in Sweden, who get all gas via the Danish system, are solely responsible for securing their own supplies in emergency situations. The best solutions recognise that markets in several countries can be affected, and can be implemented through a regional approach.

TSOs must also ensure that all transmission capacity is really being made available. In the SE region it became clear during the crisis that additional or alternative capacity could be used, and the market will expect access to such capacity in the future.

Once there is full transparency regarding existing pipelines, and clear market price signals for gas are also established, then the decisions of TSOs to reconfigure networks (for example to facilitate reverse flow) can be correctly guided by the market. Pipeline reconfiguration should be a joint operational response to market signals, not a political decision.

There is however, not always 'enough' transmission capacity within Europe.[2] In some areas LNG supplies helped to mitigate the crisis, as noted at the Gas Coordination Group on 19 January 2009 (…" *the use of LNG supply, particularly in Greece but also in Belgium*")
However, in other regions the lack of transmission capacity prevented additional gas flows. For example, the lack of capacity between France and the Iberian Peninsula did not allow traders to move gas from the Spanish and Portuguese market into the rest of Europe, even though LNG regasification capacity was available and local demand was dipping during the gas dispute.

3. Regional Co-operation

Traded markets should be allowed to function for as long as possible. Price signals help to mitigate some aspects of supply disruption without Government intervention. Robust markets with good price transparency not only allow short-term optimisation they also reduce the problems of compensation in the event of supply shortfalls.

Longer-term investment and operation of pipelines requires a co-ordinated approach. At an EU level there is already a proposed requirement in the 3rd IEM package that ENTSO(gas) produce a network development plan. An essential feature of this plan that has not yet been required is that TSOs invest in sufficient capacity to enable the maximum supplies from each source to enter the market and that this investment is allowed by the regulated asset base. Unless and until this is done the ability of the market to respond via other entry points and interconnections in Europe may be unduly constrained when a supply disruption occurs. Furthermore, the assessment of security planning criteria, for example proposals based on a so-called n-1 approach, assuming the loss of the largest supply route, can then be considered from a more reliable starting point and on a wider geographic basis.

At a regional level such co-ordination mechanisms for the combined development and operation of pipelines might also enable a more effective operational response in the event of a major supply disruption. For example with an Operator responsible across several transmission systems comprising one large balancing zone, the operational flexibility is increased because there are less physical and contractual interfaces and the

[2] EFET believes that the sizing of major interconnection capacity within Europe should be on the basis of shared economic tests administered by the Regulators, recognising the benefits to European citizens and in which the primary capacity is allocated by market mechanisms (See the EFET Primary Capacity gas position paper, October 2008, on www.EFET.org).

liquidity of the market within that large zone is enhanced because of the larger number of participants, supply and demand sources and market size.

One practical step in the Security of Supply Directive would be to require such local co-operation at least in the event of an emergency affecting more than one TSO area:

- If a potential emergency declaration would affect more than one TSO system then the operators of each system shall endeavour to operate their combined infrastructures to maximise the opportunities for market participants to flow gas to the worst affected areas.

This would be a real practical improvement, but remains a second-best solution. If independent regional system operators were responsible for the overall operation of several gas grids then these Regional Operators would already be in an ideal operational position to help the mitigation, and indeed the avoidance, of gas supply emergencies.

EFET Gas Committee
26 March 2009