

CEER Position on the European Commission Communication: European Energy Security Strategy [COM(2014)330]

3 October 2014

1. Background and objective

Background

- In response to the political crisis in Ukraine and in view of the overall importance of a stable and abundant supply of energy for the EU's citizens and economy, the European Commission adopted an EU Energy Security Strategy (EESS) on 28 May 2014 (including an in-depth study of Member States' energy dependence)¹.
- Discussions on the EESS are ongoing at EU level. The European Council discussed the EESS during its meeting on 26-27 June 2014 and endorsed the immediate implementation of a set of most urgent measures to strengthen Europe's resilience and increase its energy security in the short term, before the winter of 2014/2015.
- On 7 July 2014, EU Energy Commissioner Günther Oettinger sent letters to the national energy ministers inviting them to produce, by the end of August 2014, a "country report" in the context of assessments of the risk of a short-term supply disruption ("stress tests").
- By the end of August 2014, Member States transmitted their stress test "country reports" to the European Commission which assessed them and is due to present conclusions together with possible recommendations and proposals in time for the October European Council, in close association with the Gas Coordination Group.
- In the Council, the Energy Working Party considered possible energy security measures which the Italian Presidency, under its responsibility, will sum up for consideration by ministers at the Informal Energy Council on 6 October 2014. The outcome will be reported to the President of the European Council ahead of the 23 October 2014 meeting.

Objective

- This document reflects Council of European Energy Regulators' (CEER) views on the key actions proposed by the European Commission in the EESS in order to both contribute to the discussion and propose possible regulatory inputs and involvement.
- Since a number of proposals do not fall within regulators' competence, this document focuses on the topics of high relevance for energy regulators.

¹ [Communication from the Commission to the European Parliament and the Council on European Energy Security Strategy](#)

2. CEER guiding principles

CEER welcomes the European Commission's efforts to address all relevant aspects of security of energy supply and to table proposals for possible actions. Given the current situation in Ukraine, this Communication is very timely and constitutes a valuable contribution to the ongoing discussions concerning security of supply. Before commenting on the concrete actions proposed by the European Commission, we would like to point out our guiding principles.

→ Ensure market functioning and market-based measures as long as possible:

Some degree of ambiguity exists in how energy security, in particular for natural gas, is addressed in Europe. On the one hand, EU internal energy market policy is designed to leave gas supply to the market - the price mechanism will lead to equilibrium between supply and demand. Contracting and sourcing gas is not the responsibility of governments but is a commercial activity. The regulatory regimes have in fact been developed to facilitate these commercial activities by guaranteeing for instance, access to transmission capacities. In this market environment, the role of Member States is reduced, since supply and demand meet each other in trading places (hubs) which increasingly don't adhere to 'national borders' within the EU.

However, where security of natural gas supply is concerned, the focus is primarily put on the Member States to secure supply, in a spirit of solidarity between each other.

Certainly in North-West Europe (where more than 55% of EU gas is consumed and market integration in terms of price correlation and convergence is witnessed, the place where gas flows are attracted and sourced from diverse routes to meet demand are the markets (and not the Member States)).

Furthermore, these markets and supply/demand portfolios are organised internationally. In such an environment, it is not possible anymore to discuss supply/demand at a national level in terms of gas sources used or the role of "national" underground storage facilities. Market liquidity is no longer purely a matter of local supplies, local underground storage facilities or local Liquefied Natural Gas (LNG) terminals, etc. but depends largely on cross-border trading and swapping between markets.

For CEER, the development of fully functioning wholesale markets is a cornerstone not only for competition, but also for ensuring security of supply. This approach is also reflected in Regulation 994/2010/EU on security of gas supply² and should be maintained. In CEER's view, markets should therefore be allowed to function as long as possible, and non-market based measures shall only be taken when reaching the emergency level (as defined in Art.10 (3) lit c) of the Regulation. This requires that all EU Member States implement the network codes as soon as possible to ensure that countries are really connected and that regional approaches are possible. More information on the internal energy market is given in chapter 3.

² [Regulation \(EU\) No 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC](#)

→ Take Member States' differences into account and avoid “one size fits all” solutions:

Intervention is not necessary in all national markets. ENTSOG analysis³ shows that, even in the most extreme situations, almost two-thirds of Europe is resilient to supply disruptions. As a general rule, interventions distort the efficient functioning of the market and can result in unintended consequences. It is often observed that interventions also tend to beget further interventions. They should therefore only be considered where there is clear evidence of market failure. Any interventions that are deemed necessary should be reversible and only in place as long as necessary. Full implementation of the Third Package, with well-functioning wholesale markets, will provide the most cost-efficient security of supply in the long-term. Any interventions deemed necessary must therefore include an “exit strategy”.

Greater information provision and consistency of data collection is necessary for the market to be able to respond to risks and unexpected events. It is important to recognise ongoing developments in this area, e.g. the obligation to disclose inside information introduced by Article 4 of REMIT⁴.

Greater engagement of demand-side response, meaning that customers reduce demand in response to price signals at times of system stress, may be an option for this winter, given the time constraints, and this element should be given greater emphasis.

³ [ENTSOG Summer Supply Outlook 2014](#)

⁴ [Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency](#)

3. CEER views on the main elements of the EESS

Stress tests

The energy security stress tests announced by the European Commission were sent out to Member States in early July 2014. The involvement of National Regulatory Authorities (NRAs) varied greatly among countries. In the majority of cases, the ministries did involve the NRAs in the stress tests. In some instances, the NRA even acted as the competent authority (e.g. Slovenia, Greece) while in other cases the NRA is not involved at all (e.g. Spain, France, Luxembourg).

Due to their expertise, their access to information and their experience from the last years, NRAs can make a valuable contribution to evaluate the security of supply situation in a Member State and should therefore be involved in such exercises, in particular in the development of any additional measures.

Review of Regulation 994/2010/EU

According to Article 14 of Regulation 994/2010/EU, the European Commission must report to the European Parliament and the Council by December 2014 on the implementation of the Regulation in general and specifically on the overall consistency of Member States' Preventive Action Plans and Emergency Plans, as well as their contribution to solidarity and preparedness from a Union perspective. The report shall include, where appropriate, recommendations for the improvement of this Regulation.

Before envisaging a revision of the Regulation, CEER strongly recommends using the review to ensure the full and proper implementation of the current Regulation. There are tools which have not yet been fully exploited, e.g. thorough evaluation of feedback on the Preventive Action Plans and Emergency Plans which the Member States have to be submitted every second year to the Commission.

According to Article 7 (4) lit a) of the Regulation, the competent authority may grant exemptions from the obligation to enable reverse flows at the cross-border interconnections, if reverse flow capacity would not significantly enhance the security of supply of any Member State or region or if the investment costs would significantly outweigh the prospective benefits for security of supply. It might be an option to revisit the exemption decisions granted under this provision (e.g. in case of market signals for investments in pipeline capacity, where a physical reverse flow is a possibility but not taking place because an exemption has been granted).

In the EESS, the European Commission announced its intention to propose, based on the outcome of the energy security stress tests, "contingency coordination mechanisms and plans to deliver energy to countries in times of need".

CEER understands that such plans shall only be applied in cases of regional or EU-wide emergency situations, and not as long as markets are still functioning.

This kind of coordination mechanism would probably have to be introduced as an amendment to the current legal framework. Various structures could be envisaged for such a mechanism. If Transmission System Operators (TSOs) are charged with the task, they would need some kind of dispute resolution process in case of emergency situations (e.g. where they contradict each other). In such a case, it could be up to the NRAs to consolidate diverging views and coordinate a common position. A final instance of dispute settlement at European level could be introduced.

The European Commission further proposes to intensify Member State cooperation within the Gas Coordination Group and notably continue monitoring natural gas flows and the level of gas storage and coordinate at EU and/or regional level national risk assessments and contingency plans.

In this respect, CEER notes that the Agency for the Cooperation of Energy Regulators (ACER) and a number of NRAs⁵ (as competent Authorities or accompanying the competent authorities) participate in the Gas Coordination Group. The monitoring of gas storage levels is currently performed by Gas Storage Europe (GSE) and shared with the Gas Coordination Group. CEER appreciates GSE's work and supports the current structure. Finally, the emergency plans and the risk assessments are already consulted between affected Member States. As such, CEER considers a further increase in cooperation is not needed. As provided for by Regulation 994/2010/EU, the European Commission has requested Member States to present updated risk assessments, Preventive Action Plans and Emergency Plans. This task lies within the responsibility of the competent authorities. CEER suggests that all NRAs are involved in their preparation, even where they are not the competent authority, in order to make use of their expertise and coordination skills

As far as monitoring at EU level is concerned, CEER calls for any duplication of effort to be avoided, and would prefer modification of existing reporting duties against additional reporting layers, to prevent unnecessary administrative burdens.

Implementation of PCIs/Decisions on cross-border cost allocation

The European Commission calls for a speedy implementation of all the Projects of Common Interest (PCIs) to foster the development of infrastructures in the interest of security of supply.

Permit granting is still a major reason for delays in the realisation of energy infrastructure projects. Swift definition of cooperation schemes (according to TEN-E Regulation 347/2013/EU⁶) for streamlining permit granting within all Member States (i.e. implementation of one-stop shop) would facilitate timely implementation of PCIs.

Easier and more direct access to existing financing would be effective: the Connecting Europe Facility (CEF) is currently seen as a "measure of last resort". As a precondition, PCIs have to apply for a cross-border cost allocation (CBCA) decision, even if no significant net benefits arise to another country (while huge benefits may arise, at the same time, in terms of security of supply). At present, costs will therefore be allocated 100% : 0% in such cases. For particularly high priority PCIs, a "shortcut" therefore might be useful, allowing direct application for grants and financial instruments.

⁵ E.g. E-Control (Austria), BNetzA (Germany), CREG (Belgium), MEHK (Hungary), CNMC (Spain).

⁶ [Regulation \(EU\) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing decision No 1364/2006/EC and amending regulations \(EC\) No 713/2009, \(EC\) No 714/2009 and \(EC\) No 715/2009](#)

Many NRAs received investment requests for PCIs from project promoters and took coordinated decisions on cross-border cost allocation (CBCA) in the first half of 2014. They fulfilled their task successfully: Most CBCA decisions were taken within the deadline of six months, the ones not yet decided upon had missing documentation. One case was referred to ACER for dispute resolution and also received a decision within the deadline. Should the European Commission wish to speed up the process even further, one possibility would be to support project promoters before they submit an investment request to ensure that their requests are complete.

The TEN-E Regulation states that PCIs of the first Union list had to submit investment requests by 31 October 2013. To CEER's understanding, this means that if a PCI was not mature enough to submit an investment request by this time limit it now has to wait until the second Union list of PCIs is published.

Proposed 2030 interconnection target for electricity

The European Commission suggests raising the target of achieving interconnection of at least 10% of their installed electricity production capacity for all Member States by 2020 to a 15% target by 2030. The June 2014 European Council agreed to examine this proposed target.

We understand that the European Commission's interconnector target is to be applied to each Member State. We agree with the need to increase interconnector capacity and the importance of this for the effective integration of the European energy market. However, we do not believe that a single target is the best means to achieve this or is in the interest of European energy consumers.

To ensure that the right amount of cost effective interconnection is built to deliver Europe's integrated grid, decisions need to be evidence-based following an assessment of costs and benefits. Assessing the costs and benefits of building interconnectors is based on a complex interaction of factors. Such evidence-based analysis has gone into identifying congested areas in the grid in the Ten-Year Network Development Plan (TYNDP), and the regional and national network development plans. This includes identifying whether interconnectors between Member States or internal reinforcements are better placed to cope with future scenarios.

In line with the Energy Infrastructure Package, there are robust processes in place to assess the costs and benefits of projects to ensure they are in the interests of consumers. Furthermore, Member States and NRAs are making sure that appropriate incentives are in place to encourage the development of projects with significant benefits to the EU-wide grid. These appropriate incentives are far more likely to drive effective interconnector development than a single target applying to each Member State.

We have not seen evidence for why a blanket interconnection target of 15% of each Member State's installed capacity by 2030 is optimal or feasible. Due to significant variations in costs, needs and potential gains across the EU, a single target of 15% in the 2030 Climate Package for all EU Member States could result in perverse incentives and pressures for inefficient solutions. In addition, using generation capacity is particularly inappropriate due to the growth of intermittent generation.

As stated, we fully recognise the importance of increasing interconnection capacity for energy security and market integration, and appreciate the role of the European Commission and the European Council in highlighting this.

We ask that the interconnection objective in the 2030 Climate Package should highlight the need to implement and deliver the work envisaged in the European Infrastructure Package around network planning, reducing congestion and delivering Projects of Common Interest. It is intended that this work takes into account the range of factors necessary to facilitate optimal investment in grid development in the long-term interests of consumers.

Role of storage

The European Commission considers reviewing existing mechanisms to safeguard security of energy supply and to propose their reinforcement, where necessary, together with measures for the protection of strategic energy infrastructures and the proper balance between centralised and decentralised assets.

In CEER's view, a regional, rather than a "one size fits all" pan-European approach, is crucial. We must recognise that not all Member States are in a position to construct gas storage. The continued development of the internal energy market, with efficient cross-border flows, therefore remains critical to enhancing European energy security.

Access to storage must be open to all classes of users across the EU. Cross-border trade must be further promoted. In gas storage, in particular, product categorisation that prohibits secondary and cross-border trade reduces European security of supply and creates barriers to entry for market participants.

Any measures, where necessary, that are not based on market price signals and the actions of market participants, such as requirements for TSO strategic stocks, must have clear rules set out around their usage. This ensures that market participants are provided with suitable information to manage their risk. As before, any such measures should only be adopted on a case-by-case basis, not as part of a "one size fits all" approach.

Discussion of such possible additional measures for storage is already ongoing within CEER. The Gas Storage Task Force, responsible for this topic at CEER, is also involved in the European Commission's "Roundtable for Storage".

Role of LNG

The European Commission also suggests to cooperate further with gas suppliers and TSOs to identify possible sources for short-term additional supplies, notably liquefied natural gas (LNG).

CEER believes that a constructive dialogue between the market and the authorities is necessary. The work already done by CEER for the XXV Madrid Forum on the role of LNG in the security of supply context is being further developed and takes into account possible sources for short-term additional supplies, as well as other aspects, such as access regimes, use of terminals and market developments in LNG.

A proposal by the Greek Government to set up an "Emergency LNG Supply Coordination Mechanism", aimed at giving priority delivery of excess quantities of LNG to the most affected European markets, instead of other destinations, was recently presented to the Gas Coordination Group.

CEER will continue working to give transparency and visibility to the European LNG market in order to improve its security of supply and examine proposals such as those mentioned above.

Completion of Internal Energy Market

Building a well-functioning and fully integrated internal market must remain among our highest priorities. While maintaining their equally pivotal importance, any security of supply measures that are implemented should not hinder the completion of the internal energy market, and their role in promoting competition and investment in the gas sector across Europe. For example, full implementation of the gas Balancing Network Code will ensure that balancing markets in all EU countries respond to price signals, and hence provide investment incentives for flexibility and security of supply products. Similarly, full implementation of the Network Codes on gas Capacity Allocation Mechanisms and the Commission Guidelines on gas Congestion Management Procedures will ensure that cross-border gas flows make the most efficient use of our existing gas infrastructure.

The European Commission invited Member States to strengthen regional cooperation where interconnectors, balancing arrangements, capacity mechanisms and market integration are contributing to energy security. Through ACER, NRAs are heavily involved in these activities.

Through ACER, NRAs are particularly active in the oversight of the development of the network codes for gas and electricity by the ENTSOs and support the European Commission's aim of speeding up their implementation. Enhancement of early implementation could be considered, and in this context the role of the Gas Regional Initiatives could be evaluated.

NRAs also actively support the completion of the Internal Energy Market, notably as regards unbundling rules, reverse flows and access to gas storage facilities. In CEER's view, in the security of supply context, specific rules for cross-border access to storage in emergency situations might need to be discussed.

The European Commission also suggests assessing options for "voluntary demand aggregation mechanisms that could increase the bargaining power of European buyers", in compliance with EU legislation and trade law.

An assessment of such demand aggregation mechanisms is welcomed by CEER. It is advisable to assess compliance with the EU acquis and trade law. Any unintended consequences of such buyer aggregation should be taken into account, particularly for upstream competition, and the subsequent impact on the efficient operation of the wholesale market.