

**bne-comment on:**

## **Framework Guidelines on Gas Balancing in Transmission**

### **Systems – ACER Draft for Consultation** (DFGC-2011-G-002, 12 April 2011)

We have extensively commented the draft pilot (in what follows “draft 2010”) of the consulted document (in what follows “draft 2011” or simply “draft”). Therefore, this comment focuses on changes between the two versions and on the issues of greatest importance.

#### **1. The Role of DSOs**

Efficient flow of accurate information in a timely manner is a key for an efficient balancing system. DSOs are an integral part of this system. At the same time, in Germany at least, many DSOs have been performing poorly with respect to these demands. We therefore appreciate very much that the draft 2011 acknowledges this by requiring DSOs to cooperate with TSOs in a way that allows them to fulfil their role (chapter 6).

Still, we believe that more needs to be done. This belief stems from the German experience. In reaction to many DSOs’ shortcomings the NRA has introduced in April 2010 and is currently introducing (after an evaluation of the national balancing system published in April 2011) respectively the following measures to make DSOs live up to their responsibilities:

- Obligations to publish data which are relevant for the network users’ portfolio balancing. This concerns information necessary to anticipate and to check forecasted off-take-profiles;
- The TSO are obliged to publish the names of DSOs with poor data provision performance;
- Many German DSOs performed poorly with respect to the quality of their forecasted off-takes. The difference between forecasts and actual off-takes forces the TSOs to procure balancing services. It also causes risks especially for small network users who have to adjust their gas-procurement within hours when wrong and unexpected forecasts are delivered. To stop this poor DSO-performance from furthermore running up costs for the network users the German NRA introduced a traffic-light system requiring the TSOs to publish the names of DSOs with exceptionally weak performance;

- Additionally the NRA is about to introduce a regime punishing differences between forecasts and off-takes. Provided that this measure is implemented efficiently, this means substantial progress since it will finally set a motivational frame for the DSOs to finally live up to their role.

In addition to require DSOs cooperation with the TSOs to allow them to fulfil their balancing duties, we suggest to require DSOs to cooperate also with the network users to facilitate their tasks in portfolio balancing and to reduce system costs. We acknowledge, that the problem does not apply to all member states, however, where applicable it has to be dealt with since it affects essential features of the balancing system. Regulation in this area is necessary to fulfil the gas-regulations provision that "Each framework guideline shall contribute to non-discrimination, effective competition and the efficient functioning of the market". We suggest the introduction of the following paragraph after the fifth paragraph in chapter 6:

#### **Cooperation of DSOs with network users**

The network code shall require Distribution System Operators (DSOs) to cooperate with network users, granting access to clear and timely information relevant for portfolio-balancing to all network users on the same timescale. This includes, where applicable, information on the calculation of off-take-forecasts sufficient for the network user to anticipate these forecasts.

Our second suggestion is supposed to fill the gap concerning the abovementioned poor quality of off-take-forecasts. We suggest the introduction of the following provision after the fourth paragraph of chapter 2.1:

#### **Incentives for DSOs to minimise the TSO's demand for flexible gas**

The network code shall provide that where DSOs' activities have an impact on matching inputs into a system against off-takes from the system (e.g. through the provision of off-take-forecasts) the NRA shall introduce financial incentives to drive DSOs towards best-practice (e.g. balancing accounts for DSOs where an imbalance charge applies in case the DSOs forecasts deviates from measured off-takes), in order to minimise the need for TSOs' balancing actions.

## **2. Interim steps and target model**

We very much appreciate the fact that the draft defines conditions for the acceptability of interim steps and introduces a process designed to bring about dynamics leading up to the target model.

The main limiting factor for the implementation of the target model is a lack of liquidity in the wholesale market. We feel, however, two comments are in place. First, “insufficient liquidity” is an indeterminate concept. We think that a concept bearing a lot of weight in the framework guidelines should use a more concrete definition. We suppose ACER should make sure the concept is not used carelessly – be it in the final version of the framework Guidelines (FG), be it when evaluating the network code.

Secondly, a wholesale market’s liquidity is among other things dependant on the NRA’s regulatory decisions. Even though the FG may not be the right place to address this issue, we believe it is important that ACER and the NRAs work towards increasing liquidity in the wholesale markets.

### **3. Implementation process**

We think it is important that the NRAs are involved in implementing the European network code in the member states. In many member states significant changes will be necessary. In order to both establish legal certainty and to prevent strongly diverging interpretations each NRA should publish a binding statement on the national implementation of the European network code. We suggest the introduction of the following as first paragraph of chapter 8:

#### **The Role of NRAs in implementing the European network code**

The network code on gas balancing shall specify that as soon as possible after its adoption the NRAs shall publish a statement specifying the necessary changes, including changes to existing contracts and the national network code.

### **4. TSO-information provision obligation**

In general we welcome the provisions of chapter 6. We would like to emphasize that transparency, non-discrimination and efficiency in information provision are of great importance. But at the same time information provision comes at a cost (IT, manpower). For that reason, we hold that it is a wise decision to exempt systems allowing network users to fulfil their balancing obligations with information provided day ahead from the provision to update forecasts twice on the day of delivery. In Germany the DSOs are already struggling to deliver the day-ahead forecast. Additional information provision obligations would be costly and could cause the quality of the information provision important to the network users to deteriorate further. At the same time, the additional within-day information is basically useless in the regimes described above.

## **5. Imbalance charges**

Chapter 5.1 states that only TSO-balancing-costs not directly attributable to a network user may be shared across all network users. Now this seems to more or less determine the calculation of imbalance charges per unit as attributable total costs of the TSO divided by the sum of the units of individual imbalances.

At the same time the draft provides for the network code rightly to establish imbalance charges that provide appropriate incentives on network users to balance their portfolios. That may not be possible once the charges have been determined on the basis of criteria reflecting who caused imbalances. In other words: there is a conflict of objectives between attribution of costs caused and incentive-compatibility.

We advocate an approach that sets incentives to minimise the TSOs' balancing activities. Given a liquid wholesale-market, imbalance charges need to reflect prices. At the same time, the TSO must not make profits or losses from balancing activities. This implies that the amount of profits or losses shared across the network users may not be in line with the criterion of strict non-attributability.

Therefore we suggest to drop this criterion. The residual costs (or profits) of the TSO resulting from both his balancing activities and the imbalance charges paid and received should determine what is spread across network users. The consequences don't have to be very detrimental to the aim of attributing costs to those causing it, since spreading costs can be set up in a differentiated way (e.g. by types of off-takes causing more or less demand for TSO-balancing).

## **6. Future harmonisation of European gas balancing**

Obviously, the target model needs to go into some detail in order to be able to facilitate EU-wide operations of energy companies and to encourage cross-border trade and to simplify cross-border balancing. It needs to be detailed enough to harmonise the operationally relevant processes that can be harmonised EU-wide. Measured against this criterion the draft FG lacks (more detailed) provisions on the following:

- data exchange processes,
- IT standards,
- provisions on how to deal with calorific values in balancing.

Now, we don't believe the FG and in consequence the first European network code are the right place to harmonise these areas. It seems to make sense to start with harmonising only the principles of gas balancing in a first step. We do suggest however to introduce at the end of chapter 8 a declaration of intent, the assignment of responsibilities to market roles and a roadmap for the next steps necessary to capture the full potential of harmonising gas balancing in the EU. Our proposal:

**Future harmonisation intent and roadmap**

Eighteen months after the adoption of the framework guidelines and based on evaluations of the network code the agency shall prepare a regulation, dealing with the harmonisation of areas not covered by the network code and judged to be important for further progress towards harmonised and market-based gas-balancing, e.g. nomination processes, data exchange processes, IT standards and use of caloric values.

Berlin, 10 June 2011