



2008 ANNUAL REPORT



EUROPEAN FEDERATION OF LOCAL ENERGY COMPANIES



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A WORD FROM THE CHAIRMAN

Will we arrive at this third European directive, designed to bring about true liberalisation of the European electricity and natural gas market? And, will ownership unbundling be imposed (if only to realise an unbundling between transport, on the one hand, and production and sales, on the other) on integrated energy enterprises and will this unbundling be accompanied by a more rigorous regulatory framework? Will it be possible to arrive at a political agreement concerning the ambitious objectives relating to climate? These are probably the questions most often posed in European energy circles in Brussels in 2008.

In the course of the preceding year, secure energy supplies have once again posed a thorny problem: unprecedented oil prices, together with a sharp increase in the price of natural gas, entailing an indirect inflationary effect on electricity prices, increasing difficulties for the end user, a long lasting interruption of gas supplies from Russia via Ukraine affecting a great part of the European Union. The last quarter was the theatre of a global financial crisis, followed by a deep recession.

This political and economic context constituted a fertile ground for the elaboration of the Energy and Climate Plan by the EU: since 2008, the ambitious 20-20-20 objectives (20% energy efficiency improvement, 20% share of renewable energy and a 20% reduction in greenhouse gas emissions) have blazed the path from here to 2020.

In parallel, the EU has reached a compromise on the third package of directives for the internal market in natural gas and electricity, in the hope of at last bringing the internal energy market on the track that the Union has aspired for more than ten years now: stricter rules for unbundling regulated transmission grid activities and commercial production and supply activities, linked to a strengthening of the competencies held by national regulators and the creation of a European regulator (in the first instance solely competent for cross-border grids), all the while according particular attention to consumer rights and foreseeing an indicative timetable for the development of smart metering systems.

The latest gas and electricity directives should be reflected in the future CEDEC work programme!

Meanwhile, the at times considerable increase in gas and electricity prices – coupled with the absence of positive effects on the functioning of the market for the end user – has exerted an unreasonable pressure on regulated distribution activities and the frequently local and public shareholders.

At the same time, we have observed a not illogical increase in the costs borne by the grid operators to correctly fulfil the numerous social and environmental public service obligations developed throughout the year 2008.

In order to fulfil the future European 20-20-20 objectives, it will no doubt be necessary, besides issuing advice concerning energy efficiency, to effectuate complementary investments in smart distribution grids, including smart metering systems (for all consumers or for certain groups of consumers), which put in place proactively decentralised sustainable production in the energy landscape of the future.

Obviously, all these aforementioned events and evolutions have repercussions on the future activities of CEDEC and have confirmed the need for coordination and collaboration among local entities at the European scale.

A constructive role with political authorities and their administrations and various regulatory organs enables local energy companies to include in an integrated fashion their ideas and specific advice in European political decisions.

At the European level, confronted with a European regulator and powerful multinationals, local energy companies must, with a view to ensuring their continuity and development, continue to work together with CEDEC, which constitutes the European coordination entity which best suits their characteristics and specific interests.

Local energy companies will not be able to obtain without efforts and costs the right to be actively associated with consultation procedures at the European level. Their current involvement in the Florence and Madrid Forums, and in the London Citizens' Energy Forum, must provide the transparent base for future formal discussions regarding grids and customers.

Thanks to the credibility acquired throughout the years – since the advent of the initial projects concerning liberalisation of the European energy market – CEDEC remains an appreciated player in the European sector of public services.

I also wish to thank the management and collaborators of the national federations and affiliated enterprises, who make an essential contribution to the efficacy of the actions undertaken by CEDEC.

At this time, the search for a balance between the legitimate interests of municipal and local investors, the companies concerned and their personnel members, the end users and the general interest remains a challenge; also in the long term. Thus, we shall continue to rely, in the years to come, on the enthusiasm, knowledge and experience of CEDEC and of all its members.

Chairman

Robert Urbain

CEDEC

MISSION STATEMENT

- ***To represent the interests of its member companies in dealings with European institutions***

CEDEC represents its members in dealings with European institutions. The drafting of legislation is the final result of a long process of information, consultation and negotiation, and CEDEC plays an active part in this process.

It aims to present and uphold the common positions taken by its affiliated companies in dealings with the various European institutions, including but not limited to the European Parliament, the Council and the European Commission. It also takes part in the Florence (electricity), Madrid (gas) and London (energy consumers) Forums. It plays a role as spokesman for the local energy company sector at a European level.

CEDEC gives opinions on behalf of its members at the various stages of the legislative process. In order to deal with certain subjects, CEDEC joins forces with other European federations and bodies, by taking part in exchanges of ideas and the issuing of position papers. Through its work, CEDEC thus aims to promote the development of local energy companies in Europe.

- ***Promoting the exchange of information and experiences***

CEDEC acts as a true round table for local companies operating in the energy field. It promotes the exchange of scientific, technical and economic information relating to problems including energy distribution among its members on the one hand, and between CEDEC and the international organisations involved on the other hand.

Ad hoc task forces are set up in function of current needs and their members are drawn from experts in the various fields involved. They prepare CEDEC's opinions.

In order to provide material for exchanges of information and experiences, CEDEC also stays in touch with other European and international organisations, including CEEP (European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest) and CIRIEC (International Centre of Research and Information on the Public, Social and Co-operative Economy).

- ***Providing services to affiliated companies***

In order to fulfil its primary mission successfully, CEDEC monitors all legislative initiatives very closely and announces its opinions on subjects which are relevant to local energy companies.

It publishes a regular newsletter – CEDEC Info – and holds seminars depending upon strategic or technical needs.

Its website and information portal (www.cedec.com) render a whole series of information, particularly relevant European legislation, available on-line.

COMPOSITION OF EXECUTIVE AND SUPERVISORY BODIES

Executive Board

Chairman

Robert URBAIN (Intermixt)

Deputy chairmen :

Bernard MARGARON (FNSICAE)

Bernd WILMERT (VKU)

Administrators :

Roberto BAZZANO (Federutility)

Norbert BREIDENBACH (VKU)

Mauro d'ASCENZI (Federutility)

Jo GEEBELEN (INTER-REGIES)

Jean-Paul GIRAUD (FNCCR)

Bernard MARGARON (FN SICAE)

Giorgio SOLDADINO (Federutility)

Robert URBAIN (Intermixt)

Jacques VANDEBOSCH (INTER-REGIES)

Bernd WILMERT (VKU)

Dominique WINTER (ANROC)

Michaël WÜBBELS (VKU)

Honorary chairman

Renzo CAPRA (Federutility)

Joint Auditors

Jos ANSOMS (Intermixt)

Karl FERRARI (Federutility)

Jean RIVET (FNCCR)

The following experts attend meetings of the Executive Board :

Jos ANSOMS (Intermixt)

Gamze BIENIEK (VKU)

Claude BOURDET (FNCCR)

Renato DRUSIANI (Federutility)

Karl FERRARI (Federutility)

Luc GATIN (FNSICAE)

Orféo GOZZI (Federutility)

Luc HUJOEL (Intermixt)

René KELHETTER (FNCCR)

Antonio MADARO (Federutility)

Alain PETIT (Intermixt)

Joachim RECK (VKU)

Jean RIVET (FNCCR)

Fabio SANTINI (Federutility)

Pascal SOKOLOFF (FNCCR)

Guillaume TABOURDEAU (ANROC)

Christian VIAENE (Intermixt)

Day-to-day management

Gert DE BLOCK - Secretary-General

MEETINGS OF THE EXECUTIVE BODIES

The Executive Board met on 24/1/2008 (in Grenoble – France), 13/3/2008 (in Brussels - Belgium), 18/04/2008 (in Brussels - Belgium), 15/05/2008 (in Brussels - Belgium), 9/06/2008 (in Brussels - Belgium), 26/06/2008 (in Paris – France), 15/10/2008 (in Brussels – Belgium) and on 11/12/2008 (in Rome - Italy).

The annual General Meeting was held in Paris (France) on 26/6/2008.

AN AFFILIATION TO CEDEC

CEDEC brings together local companies (or the national federations which represent them) which are active in the energy field.

The fact that local companies have specific features because they are rooted in their local communities cannot take away their right and duty to be represented at the European level. Maximum collaboration between all local companies will strengthen and optimise the way that they are represented and their interests upheld.

CEDEC hopes to expand to include new members, thus helping to consolidate its presence in dealings with the European institutions and its impact within the European decision-making process, enabling it to uphold the positions and interests of local companies as effectively as possible.

Any organisation or company operating a local interest public service and who wishes to join CEDEC as a full member can send CEDEC a membership application accompanied by the following documents:

- a short description of the characteristics of the applicant organisation or company;
- statistical information showing importance in the area(s) of business.

2008 - SOME HIGHLIGHTS

JANUARY

- Slovenia assumes Presidency of the Council of the European Union for the first six months of 2008.
- European Commission presents its Climate-Energy Package.
- CEDEC takes part in a public hearing in the European Parliament on the Third Energy Package.
- The eight Member States opposed to ownership unbundling and the ISO option present their Third Way alternative proposal (ITO) to the Commission.

FEBRUARY

- The Twenty Seven, in the Energy Council, fail to agree on the compromise of the Slovenian Presidency concerning liberalisation of gas and electricity markets.
- CEDEC takes part in the public hearing of the European Social and Economic Committee with a view to presenting its position on the Third Energy Package.
- CEDEC participates in the conference on regional initiatives organised by ERGEG.
- Commission adopts an interpretative communication relating to the application of community law in public procurement and concessions to institutional public-private partnerships.

MARCH

- CEDEC, in its capacity as an associated member of EASEE-Gas, takes part in its general Assembly.
- European Council reaffirms the importance it attaches to the strengthening of energy security in the EU and its member states.

APRIL

- In its debate on the Third Energy Package, the internal market Commission of the European Parliament opts for the third way, namely the effective and efficient unbundling of production and transport activities of vertically integrated companies.
- Eurodeputies adopt Alexander Stubb report on supervision of lobbying activities.

MAY

- CEDEC participates in the 14th Madrid Forum.
- ITRE Commission of the European Parliament votes in favour of unbundling production and transport activities of large electricity providers.
- European Commission opens an inquiry into the French gas concern GDF, suspected of unfair competition practices.
- CEDEC attends a conference organised by the European Commission on the promotion of energy consumer rights.

JUNE

- Energy Council reaches a broad agreement on the essential elements of the Energy Package and notably a consensus on an alternative to ownership unbundling.
- European Council stresses the need for the Council and European Parliament to reach a final accord on the Third Energy Package.
- European Parliament refuses, in plenary session, the compromise of the European Council by rejecting the “third way” (ITO) and the ISO alternative advanced by the Commission for the electricity directive proposal.
- European Parliament rejects the idea of a legally binding Charter for energy consumers’ rights.
- CEDEC reinforces its links with VKU, the German association of local energy companies.

JULY

- French presidency assumes Presidency of the Council for the second half of the year 2008.
- European Parliament adopts in plenary session La Russa report concerning the directive proposal for internal natural gas market and accepts the Third Way (ITO) for gas.

SEPTEMBER

- European energy regulators, the Commission, the International Energy Agency and various actors in the sector come together in the framework of ERGEG workshop devoted to switching suppliers in the retail electricity and gas market.
- Energy Commission (ITRE) adopts quasi unanimously compromise amendments to Claude Turmes report on the directive proposal relating to promotion of sustainable energy.
- Environment Commission (ENV) adopts Chris Davies report on geological storage of carbon dioxide.
- RTE and Elia together create a coordination centre to strengthen electric security in the West Central Europe.

OCTOBER

- Energy Council manages a political accord on global legislative proposals concerning internal energy market.
- CEDEC participates in the first Citizens’ Energy Forum in London.
- ERGEG launches a consultation procedure on application measures of the third package.
- German electricity transport grid operators EnBW, EON Netz and RWE, Belgian Elia, French RTE, Luxemburger Cegedel and Dutch Tennet give birth to cross-border common service company CASC-CWE (Capacity Allocation Service Company for Central West-European Electricity Market).

NOVEMBER

- CEDEC participates in the 15th Florence Forum (internal electricity market) and the 15th Madrid Forum (internal gas market).
- European Commission publishes its second strategic analysis on European energy sector.

DECEMBER

- CEDEC responds to ERGEG public consultation on implementation of Third Energy Package.
- Energy Council emits general orientation on reworking of proposal of eco-conception directive.
- Stimulated by French Presidency, European Council reaches an accord on Climate-Energy package which is then adopted at first reading by European Parliament.
- European Network of Transmission System Operators for Electricity (ENTSO-E) created.
- Lisbon Treaty signed by heads of State and government of 27 Member States.



GENERAL EU POLICY

The Presidency of the Council plays a vital role in terms of driving forward the legislative and policy-related decision-making process within the European Union. It has the task of organising and chairing all meetings of the Council, as well as coming up with compromises likely to offer a solution to the matters under discussion.

It is held in turn by each Member State for a period of six months (from January to June and from July to December), based upon a pre-established order. In 2008 the Presidency was successively held by Slovenia and France. Each Presidency draws up its own programme which also includes a section on energy matters.

The European Council brings together the heads of State or of Government of the Member States of the European Union and the President of the European Commission. The decisions taken at meetings of the European Council play an important role as a driving force by setting out the general policy directions to be taken by the European Union, including those in the area of energy.

Finally, the "Energy" Council brings together the Ministers of the European Union who have responsibility for energy matters.

Programme of Slovenian and French Presidencies

The priority missions of the Slovenian presidency were defined in December 2006, in the course of the elaboration of the 18 month programme of the German, Portuguese and Slovenian presidencies and the examination of the current agenda of the European Union Council. The Slovenian presidency selected several areas of priority action notably that of advancing towards a solution of the problems connected to energy and climate.

The Climate-Energy package, published by the European Commission at the end of the month of January 2008, represented the answer to one of the key priorities of the Slovenian presidency. It was judged essential to reach an agreement on the Climate-Energy package before the end of 2009 if the EU wishes to play a primordial role in the framework of the conclusion of an international accord on climate change in December 2009 in Copenhagen. The Slovenian presidency also tried to advance the political accords relating to the Third Energy Package of the internal energy market.

The French presidency elaborated an 18 month programme in concert with the succeeding Czech and Swedish presidencies, foreseen for 2009. These three presidencies wish to concentrate their efforts in several areas connected to energy and climate. It concerns :

- reaching a definitive agreement in close cooperation with the European Parliament and the Commission on the third package of measures concerning the internal energy market;
- reaching an accord by the end of 2008 on the directive relating to the promotion and use of energy from renewable sources, with a view to adopting this directive at the beginning of 2009;
- pursuing the EU objective of improving energy efficiency by 20% by 2020;
- contributing to the implementation, in due course, of the European strategic plan for energy technology;
- concentrating efforts concerning measures relating to adaptation to climate change within the Union.

The great project of the French presidency of the EU Council was the Climate-Energy legislative package. Thanks to the involvement of the French presidency and the Council, with the assistance of the Commission and the cooperation of the European Parliament, it was possible to reach an accord in December 2008 during first reading on this package. The efforts devoted to the third package of internal energy market liberalisation led to the adoption of a political accord.

As for the Services of General Interest (SIG), the French presidency and the two future presidencies of the year 2009 have as a goal to follow closely the evolution of their situation. It will bear, among other things, on the foreseen evaluation of the application of the "Altmark package" relating to state aid as well as the initiatives aiming to clarify the rules applicable to institutional public-private partnerships, to concessions and to public procurement.

Energy Council of 28 February 2008

The ministers who presided the Energy Council of 28 February 2008 in Brussels debated three issues :

Electricity and gas market directives (Energy package) :

It was agreed that the Member States endeavour to formulate a solution at the Coreper level in order to arrive, during the June session, at a political accord on the Third Energy Package. The European Parliament will have issued its opinion on the totality of the package in a vote on the first reading.

On the basis of the progress report formulated by the Presidency, the energy ministers have debated ownership unbundling above all. The debate gave rise to different viewpoints concerning the various proposals, notably the third way proposed by France and Germany.

Climate action legislative package and renewable energy (Climate-Energy package) :

The Council has favourably welcomed the Energy-Climate package in its entirety. The Council focused in particular on the directive proposal relating to the promotion of the use of energy produced from renewable resources. It is estimated that this package constitutes an important way to attain the objectives pursued in matters of climate and renewable energy.

European Strategic Energy Technology plan (SET-PLAN) :

The Council has adopted the conclusions to a strategic European plan for energy technologies, presented by the Commission on 23 November 2007.

European Spring Summit of 13 and 14 March 2008

The European Council, held the 13th and 14th of March in Brussels, has reaffirmed – on the themes “Climate change and energy” – the importance it attaches to the strengthening of energy security in the EU and its Member States.

In their conclusions, the European leaders agreed that the packages of legislative measures currently under discussion are the third package for the internal energy market of September 2007, the Energy-Climate package of January 2008, the strategic plan for energy technologies and the initiatives aimed at reinforcing energy security in the EU.

Third Energy Package

The Council has recalled that an internal energy market which is “efficient, fully operational and interconnected is an essential condition for secure, sustainable and competitive energy supply in Europe”.

The Council has thus requested the Energy Council to finalise its work in order to reach a political agreement in June 2008, taking into consideration the conclusions of the European Council of March 2007.

Energy and climate

The European Council insisted on the necessity of « showing signs of flexibility » to attain the goals on the 2020 horizon, fixed in March 2007 (20% renewables in the energy bouquet of the EU and at least 10% biofuel in the total fuel consumption used in the transport sector of each Member State), to follow an approach oriented towards flexibility to reduce greenhouse gas emissions and to implement efficient national support systems.

Energy Technologies

The Council supports the « SET-plan » proposed by the Commission at the end of 2007 and approved by the Energy Council of February 2008.

External Dimension

In its conclusions, the European Council has recalled the deadlines of the common energy policy in construction. In this optic, the Council wishes to undertake a more complete evaluation of the progress of the triennial Action Plan 2007-2009. It will decide on new measures, if necessary, in the light of the strategic analysis of the energy policy, presented by the European Commission in November 2008 in view of the European Council of March 2009.

This strategic analysis, focused on security of supplies, interconnexions and external energy policy, will serve the 2010-2012 triennial Action Plan that the 27 will adopt Spring 2010.

Energy Council of 6 June 2008

The Energy Council of 6 June in Luxemburg had a particularly heavy agenda (3rd package, climate package and international relations in the energy domain), but the principal subject remained the question of the effective independence of the transport grids.

The Council was unable to reach an agreement of principal on the general approach, due to the absence of the opinion of the Parliament at first reading (expected on 19 June and 8 July).

This session of the Council nevertheless was highly important as the ministers agreed that if a compromise was not found this 6 June, there was a grave risk that the issue would be set back to 2010 (after renewal of the Parliament and Commission), France having made it known that the priority of its presidency would bear on the “green” chapter of the Climate-Energy package.

The ministers reached a political agreement on the essential elements of the coming legislation.

In particular, an understanding was reached on an effective separation of the transport grids, by means of ownership unbundling, with nevertheless the possibility of opting for the ITO (independent transmission operator) formula, applicable equally to gas and electricity. With two conditions, however :

- the grid must belong, from the moment of coming into effect of the directive, to an integrated company ;
- particular dispositions must be taken to ensure the independence of the ITO and its management, to avoid conflicts of interest, to guarantee a fair and non discriminatory access to the grid, to promote development of the grid and inter-connexions and to give the ITO independent access to the resources and means necessary to its task.

The Commission must elaborate a report of these dispositions, two years after their implementation, on the basis of objective criteria. This report will likely lead to new proposals designed to ensure the effective independence of the transport system operator (TSO).

The energy ministers also debated other aspects of the « package » namely, the possibility of a minority participation in the transport grid operator, the certification and designation of grid operators, grid codes, management of cross-border problems, regional cooperation and issues related specifically to gas.

Other elements of the agreement :

- confirmation of the « Gazprom clause » with or without ownership unbundling;
- confirmation of exemption for small companies;
- consumer rights protection;
- conservation of certain information;

- European Energy Regulators Agency shall be more independent of Member States and the Commission. It shall be enabled to take certain decisions but solely on issues involving more than one State. Its role in technical matters shall be reinforced but shall remain consultative.

These points served as a basis for the work of the COREPER group of energy experts.

With a view towards rounding up the climate dossier under the French Presidency, the ministers also held a public orientation debate on the basis of a progress report prepared by the Presidency and addressed to the Energy and Environment Councils.

The ministers examined in particular the directive proposal relating to promotion and use of energy produced from renewable sources.

European Council of 19 and 20 June 2008

The last European Council under the auspices of the Slovenian Presidency took place 19 and 20 June in Brussels. The Heads of State and Government notably indicated their willingness to undertake measures necessary to “encourage competition in energy markets”.

The European Council saluted the broad agreement reached on certain essential elements of the legislative package concerning the internal energy market, in particular on the issue of effective unbundling of production and supply activities, on the one hand, and operation of transmission grids, on the other, in gas and electricity sectors. The Council urgently requests the Energy Council and Parliament to reach a final accord on this package before the end of the current legislative session.

As for the Climate-Energy package, the Energy Council pushed the Energy Council to work in close cooperation with the European Parliament with a view to reaching an accord in line with the principals and objectives established in the course of the March 2008 session.

Energy Council of 9 and 10 October 2008

The Energy Council met 10 October 2008 in Brussels and reached a political accord on the Third Energy Package.

It was decided to render ownership unbundling elective and to foresee the option of the independent transport grid operator (ITO) applicable to electricity and gas.

The option proposed by the Commission (ISO = designation of an independent system operator) was also accepted by the Council.

Faced with these three models, the Council defined competition conditions among operators. The solution retained by the Council was that companies active in the production or supply of gas or electricity may not exert any control over a transport grid operator of a Member State which has opted for unbundling, nor exert power whatsoever over said operator.

Moreover, countries opting for ownership unbundling may hinder a takeover on their territory, but with the condition of notifying the Commission of this matter which shall judge if it is compatible with community rules.

The Council text mentions explicitly, at the level of directive proposal concerning the internal electricity market, that ownership unbundling is not foreseen for Distribution System Operators. This point has always been particularly important for CEDEC which has also continually supported the exemption for small and medium size Distribution System Operators (less than 100,000 customers).

On the « third country clause » (also called Gazprom clause), the 27 have agreed on a text specifying that, in the case where an energy operator or an economic entity of a third country invests in a transport grid operator of a Member State and obtains the control thereof, the national regulator shall have the power to finalise the decision in matters of transport grid operator certification. This decision shall be taken as the basis of an opinion of the Commission which must examine, for example, if this investment does not threaten the energy security of the Member State concerned and if there exist bilateral accords with the third country concerned.

On the basis of this political accord, the common positions of the Council have been prepared prior to being transmitted to the European Parliament for second reading. We recall that at first reading, the Parliament accepted the third way for gas but not for electricity.

The Council at last adopted an orientation report on the Climate-Energy package which has observed a sufficient consensus to discuss with the Parliament with a view to an accord at first reading before the end of 2008.

European Council of 15 and 16 October 2008

The European Council, which met 15 and 16 October in Brussels, reaffirmed the goal of a global accord on the Climate-Energy package dossier before the end of the year and agreed on an acceleration of work on energy security.

Energy Council of 8 and 9 December 2008

The Energy Council was held 8 and 9 December in Brussels. The Council was informed by the Presidency on the state of work related to the Climate-Energy package in its globality, particularly stressing the directive related to renewable energy sources.

The Council also produced a general outline on the proposal to rework the eco-conception directive.

Lastly, the Council proceeded to a public orientation debate on energy security, following the presentation by the Commission of its communiqué, 13 November, on the second strategic analysis of energy policy.

European Council of 11 and 12 December 2008

The last European Council under the French presidency was held 11 and 12 December 2008 in Brussels. This meeting of Heads of State and Government of the 27 enabled the reaching of an accord on the Climate-Energy package.

The agreement obtained on this package took a long time to achieve. In spite of the reticence which appeared following the financial crisis, the Member States maintained the principal goals of this legislative package.

In effect, the goal of the « three 20 » for 2020 is retained : 20% reduction of CO₂ emissions, 20% improvement in energy efficiency and 20% use of renewable energy. However, numerous exemptions were accorded to the intensive energy consuming industries. Thus, the emissions quota trading system (ETS) was modified to avoid carbon leaks, in other words delocalisations of energy intensive industries. Lastly, the Member States agreed that half of the resources emanating from the ETS system would be reinvested in clean technology.

Local enterprises will play a determining role in the pursuit of these goals.

The accord obtained, adopted 17 December by the European Parliament, will serve as a basis for the EU position at the Copenhagen summit in December 2009 on climate, which will have to determine the follow-up to the Kyoto Protocol. In the instance of international agreement, the EU has even committed itself to reduce its CO₂ emissions by 30% by the year 2020.



BROAD OUTLINES OF ENERGY POLICY

INTRODUCTION

The year 2008 was a year replete with major challenges on the energy level, which the Member States and the institutions have tried to meet by responding in common. Secure energy supply was a priority of the European Union in 2008. This led to the materialisation of a series of objectives : finalise the legislative package relative to the internal electricity and natural gas market, accelerate the implementation of the European action plan on energy efficiency and the strategic plan for energy technology, pursue with determination the diversification of energy sources, in tandem with the Climate-Energy package, develop crisis mechanisms enabling the EU to cope with temporary supply interruptions, reinforce infrastructure and stabilise supply by developing relations with producing countries.

Moreover, the definition of a European energy policy sensitive to climate change was another important dossier of the year 2008. The Commission launched the project by adopting, 23 January 2008, an ambitious package of measures on climate and energy aiming to give the EU the means to reduce greenhouse gas emissions by at least 20% and to arrive at a 20% share of renewable energy in energy consumption by 2020.

DEVELOPMENT OF INTERNAL GAS AND ELECTRICITY MARKET

On 19 September 2007, the European Commission adopted a package of legislative proposals with the aim of removing the obstacles observed in the total liberalisation of the electricity and gas markets in Europe.

This new package of measures, more commonly called "Third Energy Package", follows the directives adopted in 1996 for electricity (1996/92/EC) and in 1998 for gas (1998/30/EC), then in 2003 for electricity and gas (2003/54/EC and 2003/55/EC). It encompasses two directive proposals and three rule proposals :

- directive proposal concerning common rules for internal electricity market;
- directive proposal concerning common rules for internal natural gas market;
- rule proposal instituting an energy regulator cooperation Agency;
- rule proposal on grid access for cross-border electricity exchanges;
- rule proposal on access conditions to natural gas transport grids.

The discussions brought up by the presentation of the « Third Energy Package » were above all centred on the problem of ownership unbundling.

Ownership unbundling between transmission grids and production/supply activities

The Commission had initially proposed two options to pursue the realisation of the internal gas and electricity market. Its privileged opinion is ownership unbundling, in which the electricity and gas transmission grids must be separate from production and supply activities. The objective of the Commission is to ensure that a sole company may no longer be a transport grid owner, thus controlling investments in this activity with a monopolistic character and carry out competitive production and/or energy supply activities.

The Commission has nevertheless proposed an alternative, that of "Independent System Operator" (ISO). This option would notably allow vertically integrated companies to remain owners of their assets, while the management would be transferred to an entirely independent entity. On 29 January 2008, eight Member States, including France and Germany, opposed to ownership unbundling, proposed an alternative "third way" to the two methods proposed by the Commission: rather than removing the ownership or control of the transport grid operators by the vertically integrated companies, as proposed by the Commission, they suggest that this third way, called "Independent Transmission Operator" (ITO) be judged as an equivalent way to attain an effective separation.



This ITO status would allow transmission ownership by a producer while avoiding a conflict of interest harmful to competition by imposing governing rules and a reinforced regulatory control, accompanied by penalties.

The European Council of energy ministers positioned themselves, 6 June 2008, behind this proposal by choosing an elective ownership unbundling.

On 18 June 2008, the European Parliament refused, in plenary session for the first reading of the electricity directive proposal, the third way (ITO) and also the (ISO) alternative proposed by the Commission.

However, concerning gas market liberalisation, the Euro-deputies, in an opinion on first reading of 9 July 2008, rejected the ISO option but accepted the position of the "third way" (ITO). In this opinion, the Parliament considered that the Member States may authorise their energy companies to retain the ownership of their gas supply and transmission activities. This decision of the European Parliament conforms to the accord of the European Council of 6 June 2008 which indicated that gas companies could retain ownership of their gas grids.

On the basis of the political accord reached during the 10 October 2008 Council, the Energy Council adopted the three alternatives for the electricity and gas sectors: ownership unbundling, independent system operator (ISO) and independent transmission operator (ITO). Nevertheless, the choice of the ISO or ITO formula is only open to the Member States in which there exist one or various vertically integrated companies at the effective date of the new directive.

CEDEC has followed very closely the evolution and work relating to the directive proposals concerning the common rules for the internal electricity and gas market.

Concerning unbundling, CEDEC has recognised the proposal of imposing ownership unbundling on Transmission System operators (TSOs) but only to stimulate non-discriminatory investment in assets linked to transmission, and to optimise technical cooperation among the TSOs at the European level.

On the other hand, CEDEC remains convinced – as do the European Commission and ERGEG – that for Distribution System Operators, a qualitative follow-up of the existing rules in matters of legal and functional separation – mandatory only since 1/7/2007 – would suffice to lead to an effective separation in distribution.

Competition requires a great diversity of operators (large and small, public and private) on the market with a view to guaranteeing choice to the consumer.

Nevertheless, ownership unbundling for the DSO would risk leading to privatisation of production and supply activities, public authorities (who would in this case have to make a choice) preferring to remain as shareholders in a regulated grid activity, limiting themselves to facilitating the market.

The application of the independent grid operator alternative in energy distribution would even risk totally excluding local and public shareholders from the European energy market – obliging them to separate themselves from their distribution operational activities.

If ever this unbundling were applied on the distribution level, CEDEC is convinced that that would reinforce concentration at the level of production and supply, and would thus reduce competition.

CEDEC has moreover assiduously defended the existing exemption at the unbundling level for small size DSOs (less than 100,000 clients). This exemption remains capital for CEDEC to avoid an increase of the costs and grid fees (because of the loss of economies of scale and of the impact of fixed costs).

Consumer protection

The legislation proposed contains as well, in annex A of the electricity and gas directives, specific measures which strengthen the position of consumers on the market. Suppliers must, inter alia, ensure that their customers are informed more frequently about their energy consumption and its cost. The text foresees, notably, the implementation of intelligent metering systems.

CEDEC considers that a massive launch of intelligent metering systems, in the short term, for all consumers of the Member States of the EU is not feasible from a practical point of view. Moreover, CEDEC considers that it would be necessary to calculate the profitability of implementing these systems by analysing on the one hand, the costs to be borne by the massive launch of new electronic meters and on the other hand the real advantages to be gained by consumers.

It also stresses the fact that the costs related to these investments and the operational costs associated thereto will inevitably – directly or indirectly – be borne by the consumer.

European Agency

The Commission proposes a whole series of measures to stimulate the establishment of a true internal energy market and to contribute to secure supply. For this, inter-connexions among the various national markets must be as fluid as possible. These measures concern, among others, the establishment of a European Agency. This national energy regulators cooperation Agency, complementing national regulators, shall be entrusted with monitoring cross-border energy cooperation. The Commission also insists on the strengthening of the powers of the national regulatory authorities.

In a vote on 18 June 2008, the European Parliament gave this Agency new powers and an enhanced financial and regulatory independence. This Agency should also be more accountable to the Parliament and the players concerned.

The Parliament thus rejected the purely consultative role that the Commission reserved for the Agency, which will now have the possibility to establish guidelines and adopt rules, projects and technical codes proposed by the TSOs.

The Council, however, in a common position adopted 9 January 2009, accepts the Commission's proposal aiming at reinforcing the Agency's role in questions of a technical order, this role remaining nevertheless of a consultative nature.

CEDEC is convinced that a solid and comparable regulatory framework among the Member States will constitute a positive factor for the development of the internal energy market, by guaranteeing its correct functioning. Provided, however, that the regulatory framework and the regulators themselves operate in a long-term perspective.

The Agency can constitute an effective instrument to approach cross-border problems. However, CEDEC deems that the necessary respect must be accorded to the principle of subsidiarity and to the important role of national regulators at the energy distribution level.

CEDEC is of the opinion that the Agency must not become the regulation authority responsible for regional markets, nor for questions concerning distribution. This would constitute an additional handicap for local energy companies and would also be an obstacle to the principle of subsidiarity.

Reinforcing cooperation among transmission grid operators

In order to promote integration of the electricity market within the European Union and to develop operational grid security, the Commission proposes the formalisation of cooperation among the national gas and electricity TSOs by the establishment of a European Network of Transmission System Operators (ENTSO). ENTSO-E was formally created on 18 June 2008 by 42 TSOs.

This network shall have three principal tasks :

- Elaborate harmonised norms concerning access to pipelines and electricity grids.
- Guarantee coordination to enable the synchronisation of grid operations and to avoid possible grid failures.
- Coordinate and plan investment in the network.

On 18 February 2009, a first regional technical cooperation centre between RTE and Elia was inaugurated under the name « Coreso » (Coordination of Electricity System Operators). The creation of Coreso responds to the need for strengthening operational cooperation among TSOs expressed by the European Commission in its Third Energy Package.

Consultation on application measures of the Third Energy Package

The regulators have decided not to wait for the adoption of the « third package » to begin to work on the implementation of future legislation. The goal is to finish this work within 18 months, in order that these measures be operational before the transposition deadline of the new directive .

The Agency will not be in a position to act before the month of June 2010.

This is why ERGEG has elaborated initial proposals in three key areas :

- relations of parties involved with the Agency;
- framework guidelines and network codes foreseen by the directive;
- coordination between national and regional levels in transition period towards single market.

CEDEC has replied favourably to this initiative, insisting particularly on a more explicit participation of the Distribution System Operators. Moreover, it is not known what impact these guidelines geared to cross-border grid codes might have on national grid codes.

Given the divergences of position between the Commission, Parliament and European Council, the above met at the beginning of 2009 on several occasions in « trilogue » to reconcile the differing positions and to come to an agreement before the European elections of June 2009.

As to the directive on renewable energy, the Parliament and French Presidency agreed on a revision clause: the Commission evaluation concerning the implementation of the directive, foreseen for 2014, will however not affect the 20% objective.

OBJECTIVES FOR A EUROPEAN CLIMATE POLICY



Following the commitments undertaken by the European Council of March 2007, the Commission adopted, 23 January 2008, a package of measures on energy and climate – to achieve in 2020 – which attributes to the European Union the means :

- to increase energy efficiency by 20%;
- to reduce greenhouse gas emissions by 20%, up to 30% in the event of an international agreement;
- to attain a 20% proportion of renewable energy in the total energy consumption of the EU;
- to attain a 10% share of biofuel in total transport consumption.

The European Council of March 2008 unanimously validated these proposals and stated its wish that a coherent legislative package be adopted by the beginning of 2009 at the latest. With a view to attaining these objectives, in particular in matters of energy efficiency, the Commission adopted, 23 November, the second strategic analysis of energy policy (see below).

The European Council has moreover recalled that the Union intends to maintain a role as leader at the international level in matters of climate change and energy. The European Council of 11 and 12 December 2008 reached a political accord on the elements of the package, thanks to the close cooperation of the Commission and the French Presidency of the Council, taking into account the specific problems encountered by several Member States.

Finally, 17 December 2008, after eleven months of legislative work, the European Parliament voted in plenary session in favour of the Climate-Energy package, thus opening the way to a definitive adoption of the legislative texts by the Council of Ministers on 19 March 2009.

SECOND STRATEGIC ANALYSIS OF ENERGY POLICY

The European Commission presented, 13 November 2008, its second strategic analysis of energy policy. It consists of a collection of analyses, measures and proposals aiming to give the Union every chance to attain the objectives that it set for itself in the Climate-Energy package.

Even if energy is primarily the responsibility of each one of the Member States, shared goals and formulas of solidarity are in the interest of all. The Commission thus proposes a European action plan in matters of security and energy solidarity. Principally, in confirmation of measures already announced, it identifies five areas in which it is necessary to act further to guarantee a sustainable energy supply :

- The development of infrastructure and diversification of energy suppliers: it concerns the development of energy networks in the framework of the implementation of the third package;
- A greater energy efficiency :
 - revision of the directive on energy performance for buildings;
 - revision of the directive on labelling of appliances;
 - an intensification of the application of the directive on eco-design of products and appliances;
 - a communication on the promotion of cogeneration;
 - a collection of measures relating to taxation of energy.
- A European external policy towards supplier countries: to speak with one voice with all supplier and major consumer countries;
- Crisis mechanisms in matters of gas and oil reserves: in particular, the Commission foresees for 2010 a revision of the directive on oil reserves and a communication on the question of the revision of the 2004 directive on security of supply for gas;

- A better use of native EU resources: they represent 46% of the consumption of the 27 (of which 9% just for renewables). Without any particular measures, this rate would decrease to 36%. The plan aims to maintain it around 44% and contains:
 - preparation for a communication on remaining obstacles to renewable energy development;
 - preparation of a communication on low carbon technology financing;
 - update of the Community nuclear indicative Programme;
 - revised directive proposal on Nuclear Safety.

At the beginning of 2009, the European Parliament adopted a report on this second energy policy strategic analysis.

It advocates obligatory emergency action plans in case of gas supply shortages, further grid interconnexions among Member States, a specific roadmap for investment in nuclear energy, and climate objectives to be reached by 2050, including a reduction of greenhouse gas emissions by at least 80%.

In the framework of this energy policy strategic analysis, CEDEC has issued several opinions regarding revised directive projects, notably on energy labelling and on energy performance for buildings, as well as the Commission's communication on cogeneration promotion.

CEDEC wishes, at the level of energy labelling and at the level of energy performance for buildings, to participate in the elaboration of these revised directive projects to ensure that the involvement of local enterprises in enhancing energy efficiency may contribute to climate protection and economic development.

EU statutes foresee, among other things, that the rate of energy loss in stand-by mode in office equipment and appliances may not exceed one watt as of 2010. CEDEC recommends, however, to display the true loss rate on the energy label of the appliance in question.

As to energy requirements for new and existing buildings, undergoing important renovations, local enterprises currently offer support already to property owners by providing energy consultation, and in part by promoting installations enabling improved energy efficiency, such as condensation gas furnaces, solar panels, and by the use of energy saving devices. This is why CEDEC salutes the minimal requirements in energy performance foreseen by the reworking of the directive for technical systems for buildings.

Moreover, CEDEC approves the valorisation of the energy performance certificate for buildings whose delivery must be more uniform than hitherto. It supports, as well, the requirement of an intensification of heating installation inspections, accompanied by energy consultation, an area in which local energy companies have longstanding experience.

The Commission affirmed, in the framework of its communication on cogeneration promotion making up a part of its second strategic analysis, that cogeneration constitutes an important part of EU energy strategy, and announced that it would support cogeneration development by means of financial aid.

CEDEC considers these declarations as a proof of the growing interest accorded to the use of cogeneration on a large scale. In order to deploy the potential of this eco-friendly technology throughout Europe, it will be necessary to create the required and appropriate juridical conditions. Henceforth, CEDEC wishes to pursue its concrete participation in negotiations with the European Commission and Parliament.

FLORENCE FORUM — MADRID FORUM — LONDON FORUM

Consultation of market players

CEDEC participated in 2008 in the regulator Forums for electricity (Florence Forum) and gas (Madrid Forum) and on "Citizens' energy" which was held in London.

The Florence, Madrid and London Forums are composed of representatives from the European Commission, national regulatory authorities (CEER-ERGEG), Member States, consumers (IFIEC, BEUC) and representative organisations of the market players: producers, suppliers and traders (Eurelectric, Eurogas and EFET) and transmission and Distribution System Operators (ENTSO, GTE, CEDEC).

In general, in the Florence and Madrid Forums, it is principally problems affecting the wholesale market which are discussed: transmission (interconnexions), storage, production and trade. Problems affecting distribution and supply to the end user have been dealt with less up to now.

The citizens' energy Forum which deals with key issues affecting the retail market such as conditions for changing energy suppliers, billing, metering and data exchange or consumer protection specifically, concern local suppliers and Distribution System Operators.

Madrid Forum – Gas

CEDEC participated on 22 and 23 May 2008 in the 14th Madrid Forum. The Forum notably saluted the ERGEG initiative on its intention to prepare a public consultation on the practical realisation of the Third Energy Package and the establishment of priorities for development of codes and guidelines for cross-border networks. CEDEC also participated in the 15th Forum which was held in Madrid 6 and 7 November 2008.

The Commission notably saluted the establishment of the list of minimal conditions concerning transparency which was proposed by EFET, OGP, Eurogas, Eurelectric, CEDEC and GEODE.



Citizens' Energy Forum

CEDEC took part in the first citizens' energy Forum which was held 27 and 28 October 2008 in London. Meglena Kuneva, European Consumer Commissioner, and Andris Piebalgs, European Energy Commissioner, inaugurated the first meeting of the new citizens' forum for energy. This forum gathers national European consumer associations, representatives of national regulatory authorities, governments and the energy sector. BEUC played an important role in this Forum. It presented a document which principally mentions billing, facilitating change of suppliers and the role of the Distribution System Operators. Particular attention was placed on perspectives in the area of smart metering systems.

As for ERGEG, it presented its report on the transposition of annex A of the electricity and gas directives, particularly stressing the lack of proper enforcement of the legislation on energy consumer protection in the Member States. It also presented its report on best practice of the process of switching suppliers, notably highlighting vulnerable consumers.

CEDEC presented its priorities on the various subjects. CEDEC explicitly indicated its willingness to contribute to all future concertations with the European Commission on subjects concerning its DSO members and suppliers.

Florence Forum – Electricity

The Electricity Forum held 24 and 25 November 2008 in Florence notably concentrated on the theme of the Third Energy Package. In this context, ERGEG wished to organise a debate, to clarify the distribution of tasks and to implicate the interested parties in the future application of the Third Package directives, namely the elaboration of network codes.

This was in order to accelerate the concrete implementation of the package and to occupy in an optimal manner the time remaining until the start of activities of the new European Commission.

If, in addition to the representative forums (Florence, Madrid and London), meetings of experts are created in the framework of transparent procedures of stakeholder consultation and market players, CEDEC and its 2000 member enterprises are more than willing to make their active contribution.

PARLIAMENTARY ACTIVITIES

At the European Parliament, the year 2008 was marked by a growing preoccupation with the stakes linked to energy and climate change, which manifested itself in the following initiatives :

- A worldwide fund for the promotion of energy efficiency and renewable energy (report adopted 12 March 2008).

The European Union must thus consider support to renewable energy and energy efficiency in developing countries as an integral part of its energy and climate change strategy, as well as its development policy. Besides subsidies, soft loans and reinforcement of institutional capacity, public funds can also play a determining role in mobilising private capital in situations where investment risks would be too high.

- A framework regulating lobbyists accredited to the European institutions, resolution adopted 8 May 2008.

A public registry of lobbyists operating around the European institutions was opened 23 June on a trial basis. A revision is reportedly foreseen for the beginning of Summer 2009.

The objective is to obtain a common registry for the Council, Commission and Parliament. The lobbyists would have to respect a common code of conduct under penalty of suspension or exclusion from the registry.

The deputies proposed inserting financial information of the lobbyists in the mandatory registry.

Lastly, each MEP author of a report, may attach a "legislative imprint", that is to say an indicative list of interest groups having been consulted during the preparation of the report.

- European Charter of energy consumers' rights (report voted 19 June). The European Parliament pronounced against the idea of a legally binding European Charter. The charter shall be limited to an information document to enumerate, clarify and consolidate energy consumers' rights.

- Mastery of energy prices (adopted 25 September 2008).

The European Parliament requests a strong public commitment aimed at adopting concrete measures for reducing energy demand, promoting renewable energy sources and energy efficiency, pursuing diversification of energy supply and reducing dependence on importation of fossil fuels.

ERGEG PUBLICATIONS

European National Regulators' Group publications appearing in 2008:

- Guidelines on obstacles to switching suppliers in retail electricity market (10 April 2008): report examines statute of opening of electricity market within the EU and focuses notably on obstacles to switching suppliers.
- Guidelines on functional and informational unbundling (15 July 2008): these guidelines reflect what regulators consider as an appropriate manner to undertake an effective unbundling at the functional and informational level for Distribution System Operators.
- Public consultation of problems of market abuse relating to energy (21 July 2008).
- Procedure of switching suppliers in electricity and gas markets (23 September 2008): this report based on five countries (France, Austria, Spain, Romania and Sweden), shows that procedures of switching suppliers in force are comparable and have improved, but that they do not alone guarantee an involvement of consumers in the market.
- Public consultation on realisation of Third Energy Package (21 October 2008): regulators do not wish to await the definitive adoption of the Third Package to begin to prepare the implementation of the legislation. The objective was to finalise this work within 18 months, so that these measures are operational by the expiration of the transposition deadline of the third directive.

An opinion from CEDEC regarding this public consultation highlights three important points:

- **Distribution System Operators are not explicitly included;**
- **technical codes are elaborated for transport grid operators and it is to be avoided that these technical codes be imposed mutatis mutandis on Distribution System Operators;**
- **CEDEC should be involved in the groups of experts, preferably via the Florence, Madrid and London Forums.**

- Status review 2008 (15 December 2008): this report notes that the opening of the energy market presents lacks for energy consumers.

- Activity Programme 2009 (12 December 2008): it is foreseen that ERGEG shall lead a study on unbundling of Distribution System Operators. The European Commission should also undertake an analysis on this subject in the course of the year 2009. CEDEC shall be particularly attentive to this.

PUBLIC PROCUREMENT AND CONCESSIONS

5 February 2008, the Commission adopted an interpretative communication concerning the application of community law on public procurement and concession to the institutional public-private partnerships (IPPP); the latter are mixed capital entities generally created for providing public services, notably at the local level.

This communication bears on the European rules and principals applicable to the choice of private economic operators participating in this form of public-private partnership and in the phase posterior to the creation of the partnership. It places a provisional end to the European debate on PPP initiated with the Green Paper of May 2004.

The objective of the communication is to reinforce judicial security and to respond to the preoccupations of potential private investors as to their role within the framework of the IPPPs.

The text explains community rules which apply during the selection of private partners of the IPPPs. Depending on the type of mission attributed to the IPPPs (public procurement or concession), the public market directives or general principals of the CE treaty apply to the selection of the private partner.

For the establishment of a IPPP, the interpretative communication also expresses the point of view of the Commission according to which, in community law, a sole attribution procedure suffices. In effect, community law does not require a double procedure (the first for the selection of the private partner of the IPPP and the second for the attribution of the public procurement or the concession to the mixed capital entity) during the creation of an IPPP.

The communication also explains that in principal, the IPPPs must retain their initial field of activity, that is to say remain within the framework defined by the contract attributed at the origin, and may not obtain new public procurement or concessions without a competitive bidding procedure which respects public procurement and concessions community law. Notwithstanding, it is recognised that the IPPP, being customarily created for provision of a service over a rather long period, must be in a position to adapt to certain changes which intervene in the economic, judicial or technical environment. The Communication explains in which circumstances these developments may be taken into account.



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