Energy research Centre of the Netherlands

EU ENERGY MARKET LIBERALISATION AND INTEGRATION: AN ASSESEMENT OF THE NEW ENERGY PACKAGE

Jeroen de Joode and Frits van Oostvoorn

ECN Policy Studies

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Outline

- Context
- Focus & question
- Assessment
- Conclusions

Context

What is the problem?

- Beginning of 2007: EC issues progress reports on implementation and results from energy sector inquiry
- Main problems:
  - Lack of investments (especially cross-border)
  - Market concentration
    - Vertical foreclosure
    - Discriminatory behavior
  - Insufficient market integration
    - Lack of harmonization
    - National focus in regulation

Context
The legislative trajectory

- Sep 2007: EC issues proposed 3rd legislative package
  - Introduces measures on:
    1. Ownership unbundling of transmission and generation
    2. Cooperation between regulators (ACER)
    3. Cooperation between TSOs (ENTSO)
    4. Independence and powers national regulators
    5. Improve market functioning

- Jun 2008: Council of Ministers Meeting
  - General agreement on broad lines of the package
- Jun/Jul 2008: Discussion in European Parliament
- 3rd electricity and gas directive in 2008/2009?

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Focus & question

- Focus on transmission investment problem
- Question
  - Do we expect proposed legislation to sufficiently tackle this problem?
- Elements:
  - Unbundling of transmission and supply
  - Regulatory oversight

Unbundling transmission and supply
Introduction

- Different options presented:
  1. Ownership unbundling (OU)
  2. Independent system operator (ISO)
  3. Independent Transmission Operator (ITO)

Unbundling transmission and supply

Option # 1 ownership unbundling (OU)

- An energy company may not have a (significant) share in a TSO
  - TSOs independent
  - Applies to both private and public entities

- Removes disincentive for investment
- But does not automatically induce new investments
  - Investment depends on complete regulatory framework

Unbundling transmission and supply

Option # 2 Independent system operator (ISO)

- *Ownership* of transmission remains with vertical integrated company
- *Operational* decision-making with independent system operator

- Does not remove strategic disincentive for investment by vertically integrated companies
- Challenge: contractual arrangements on investment decision-making
- ISO is in fact a stand-alone option: choice for other options does not exclude ISO
- Why did the EC offer this alternative?

Unbundling transmission and supply
Option # 3 Independent transmission operator (ITO)

- Also known as ‘EEU’ (Effective and Efficient Unbundling)
  - Option brought forward by large companies, France & Germany (‘Third way’)
- In fact: current legal unbundling with some regulatory oversight
  - Independent board and management due to regulatory veto and ‘deontology’
- Improvement compared with status quo?

Unbundling transmission and supply

Discussion of options

- OU remove perverse investment incentive (ISO and ITO do not)
- But does not automatically induce new investments
  - Investment depends on complete regulatory framework

- ISO option is ‘independent choice’
- ISO challenge: contractual arrangements on investment decision-making

- ITO option not an improvement compared to status quo

Regulatory oversight on investment
Role for national regulators

- TSOs yearly draft 10 year network investment plan
  - Based on stakeholder consultation
- National regulators review and can amend
  - Back to central planning?
  - Are regulators willing and capable?
  - Fully independent regulators required (EU focus)
    - (other package element)
  - Cost-benefit framework required

Regulatory oversight on investment

Role for national regulators

- Regulators monitor implementation: when implementation fails the regulator can:
  - Require TSO/TO to execute investment
  - Organise a tender open to other potential investors
  - Oblige TSO/TO to accept capital increase to finance necessary investment and allow independent investors to participate

- Should an investment plan be binding or should it be a ‘communication tool’?
- Conflicts with incentive-based approach!

Regulatory oversight on investment

Role for ACER

- ACER does not have same powers as national regulators
- Oversees regulators’ review and amendments, but no binding decisions can be taken
- Only decision-power on granting of exemptions
  - Including exemption conditions

- Powers of ACER limited in enforcing (economic sound) cross-border investments
- Dependent on cooperation between TSOs (ENTSO)

Conclusions

- Does the proposed legislation solve the investment problem?
  - Actual investment depends on large range of factors (regulation, permits, etc.)

- Unbundling:
  - No. Compromise solution itself doesn't seem better that current situation
- Regulatory oversight:
  - Yes: for national network investments (can relieve congestion on the borders!)
  - Uncertain, maybe yes, for cross-border investments.
    - Dependent on ENTSO cooperation
    - Dependent on regulator's independence (EU focus)

Thank you for your attention

Questions?

Jeroen de Joode
dejoode@ecn.nl