



# ANNUAL REPORT 2007



EUROPEAN FEDERATION  
OF LOCAL ENERGY COMPANIES

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# A WORD FROM THE CHAIRMAN

Dear ladies and gentlemen,

2007 : a year of great expectations. The year during which the European Union – from the first of July – has for the first time experienced a completely liberalised gas and electricity market.

The European Commission has all the same observed in its sector poll that the liberalisation of the energy market has not yet led to the desired results. The national markets, still pertinent, appear too often to be dominated by a “national champion”. We cannot speak of true competition, especially at the production level.

The Commission has submitted to the European Council and Parliament a series of measures consisting of: the imposition of strengthened regulatory measures for energy (reinforcing national regulators, creating a European regulator), the most radical of which – and the most contested – concerns ownership unbundling between commercial activities (production and supply) and grid management. A measure which – if it were ever applied to distribution grid operators whose shareholders are more and more often also public establishments – would provoke an amplification of the wave of concentration in Europe in production and sales, and thereby a deterioration in the functioning of the market.

Meanwhile, several large mergers – which will undoubtedly soon be followed by others – contribute to the formation of dangerous oligopolies in the European and regional electricity and natural gas markets. Again, public interventions – among which those of the European Commission – were imposed to avoid overly compromising effects for energy market development.

At the same time, reserves in electricity production have continued to diminish due to a lack of new investments and consequently the price of energy has increased.

However, the absence of positive effects for the consumer has in many countries led to an unreasonable pressure on regulated activity, and principally on distribution, whose key role and importance are often underestimated.

The national regulation authorities are tempted to take measures which entail cost reductions in the short term, to the detriment of long term general interest objectives, such as quality and security of the grids. Nevertheless, incitements to diminish investment in the grids and, at the level of meters, negligence of qualitative criteria or discouragement by shareholders (essentially public and of small dimension at grid level) do nothing at all to enhance security of energy supply. It is of crucial importance for the future of energy distribution – which represents 90% of energy grids – that legislators and regulators adopt a long term perspective and vision.

The liberty of choice belongs not only to the consumer, supposedly able to be affirmed, but also to the electricity and natural gas supplier, which can attract or refuse customers, without constraint at price level. Thus, distribution grid operators again become – more and more – suppliers of last resort, at times with the aid of budget meters or other intelligent meters whose necessity for market diffusion is growing, but whose costs are not competitive.

Taking into account the feeble negotiating power of the consumer in a market which has not yet profited from the expected advantages – neither at price level nor other objectives such as investments in the sector – it will be necessary to devote more attention to legitimate consumer rights and to obvious supplier obligations.

In the framework of the climate package presented in 2007 by the European Commission, grid operators will continue to assume their responsibility in actions fostering energy efficiency and development of intelligent grids, which will further enable the integration of local and sustainable energy sources. These intelligent grids will nevertheless require accrued investment at the level of distribution and measurement.

It comes down to the EU to continue to seek a policy reconciling competitive energy markets with tangible positive effects for consumers, sustainable development and security of supply.



All these trends will incite local distribution companies, often with public shareholding, to unite their forces within CEDEC.

Only concerted action at the European level will enable an appropriate and effective defence of their interests. That is the reason why CEDEC has further invested, in 2007, in the development of contacts with enterprises, the national and European associations which have very close objectives. The renewal of the cooperation accord with VKO (Austria) and the perspective of an intensified cooperation with VKU (Germany) will have decisive effects in this direction.

The past two years have also seen adjustment in the bodies which meet periodically in Florence and Madrid, as well as the intensification of relations with the Commission and the Parliament.

CEDEC remains a valuable and appreciated channel for the follow-up and, if need be, the orientation of European energy policy, notably thanks to the know-how and creditability acquired down the years, and by the coherence of its arguments, arguments which associate economic efficiency with a customer oriented service, locally based, in the perspective of sustainable and social general interest.

Lastly, we sincerely wish to thank the CEDEC secretariat for its devotion and to the entire staff of affiliated enterprises who make an essential contribution to the functioning of the different activities of CEDEC. We wish the very best in their tasks to the new Chairman and administrators.

**Renzo Capra**  
Chairman

# 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. 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 and Madrid 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 associations and federations, 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. 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 publishes a regular newsletter – CEDEC Info – and holds seminars depending upon strategic or technical needs.

Its website and information portal ([www.cedec.com](http://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**

Renzo Capra (Federutility)

#### **Deputy chairmen :**

Jean-Paul GIRAUD (FNCCR)

Robert URBAIN (Intermixt)

#### **Administrators :**

Jos ANSOMS (Intermixt)

Jacques BOZEC (ANROC)

Achille DIEGENANT (INTER-REGIES)

Antonio MADARO (Federutility)

Bernard MARGARON (FN SICAE)

Giorgio SOLDADINO (Federutility)

The following experts attend meetings of the Executive Board :

Claude BOURDET (FNCCR)  
Gert DE BLOCK (INTER-REGIES)  
Renato DRUSIANI (Federutility)  
Karl FERRARI (Federutility)  
Luc GATIN (FNSICAE)  
Orféo GOZZI (Federutility)  
Luc HUJOEL (Intermixt)  
René KELHETTER (FNCCR)  
Alain PETIT (Intermixt)  
Jean RIVET (FNCCR)  
Fabio SANTINI (Federutility)  
Pascal SOKOLOFF (FNCCR)  
Jacques VANDEBOSCH (INTER-REGIES)  
Christian VIAENE (Intermixt)  
Jean-Marie WAGNER (ANROC)

### **Joint Auditors**

Karl FERRARI (Federutility)  
Jean RIVET (FNCCR)  
Robert URBAIN (Intermixt)

### **Day-to-day management**

Gert DE BLOCK - Secretary-General

## **MEETINGS OF THE EXECUTIVE BODIES**

The Executive Board met on 25/1/2007, 8/3/2007, 3/5/2007, 28/6/2007, 4/10/2007 and on 13/12/2007 (in Brussels, Brescia and Bruges).

The annual General Meeting was held in Bruges (Belgium) on 28/6/2007.



## **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.

# 2007 - SOME HIGHLIGHTS

## JANUARY

- Germany assumes Presidency of the Council of the European Union for the first half of 2007.
- The European Commission publishes its « energy package » dealing with a series of themes linked to Community energy policy.
- Neelie Kroes, European Competition Commissioner publishes her sector study on energy.

## FEBRUARY

- CEDEC participates in the 12th Madrid Forum.
- The Energy Council debates mainly on the theme « internal gas and electricity market », one of the chapters of the energy package.
- The European Commission presents its political priorities for 2008.
- L'UCTE (Union for coordination of electricity transport) presents its final report on the major electricity blackout of November 2006.

## MARCH

- CEDEC issues an opinion on « Energy policy in Europe », following the energy package published by the European Commission.
- CEDEC meets energy Commissioner A. Piebalgs to issue its opinion on the energy package.
- The European Council adopts a global energy action plan for 2007-2009 on the basis of the energy package.

## APRIL

- CEDEC meets Energy DG to affirm its position on defence of grid distributors regarding energy package.

## MAY

- CEDEC meets Competition DG to go over key points of the third Electricity and Gas directive proposal.

## JUNE

- CEDEC and VKÖ (Verband kommunaler Unternehmen Österreichs) sign a new cooperation accord.
- Energy Council ministers debate ownership unbundling which is the object of numerous debates.
- European Parliament approves institutional compromise on revision of directives concerning recourse in matters of transfer of public markets.
- ERGEG publishes its opinion, requested by the European Commission, in view of the elaboration of a third legislative package.
- CEDEC replies to ERGEG public consultation on project of ERGEG guidelines for good practice on functional and informational unbundling.

## JULY

- Portugal assumes Presidency of the Council for second half of 2007.
- As of 1/07/2008, liberalisation of electricity and gas market applicable in all EU member countries.
- New CEDEC website ([www.cedec.com](http://www.cedec.com)) on line.
- European Commission presents proposal for energy consumers charter.
- European Parliament adopts in plenary session Alejo Vidal-Quadras report on internal electricity and gas market perspectives.

## SEPTEMBER

- European Commission publishes its third energy package.
- CEDEC participates in 14th Florence Forum.
- CEDEC replies to public consultation launched by European Commission on European Charter of energy consumer rights.
- European Parliament adopts in plenary session Britta Thomsen report concerning roadmap for renewable energy.
- European Commission names coordinators who will chaperone 4 priority projects in energy interconnexion field.

## OCTOBER

- 13th Madrid Forum, with CEDEC participating, dedicated to transparency, interoperability and new investment in the gas sector.
- European Parliament adopts in plenary session Herbert Reul report on conventional energy and energy technology.



## NOVEMBER

- European Commission adopts communication on services of general interest.
- European Commission adopts its strategic European plan for energy technology.

## DECEMBER

- Treaty of Lisbon, modifying EU constitutional treaty, signed by European leaders.
- European Council notes progress realised during discussions on third energy package.
- Commission sends 26 opinions directed to 16 member States for non-transposition of electricity and gas directives.
- Electricity grid operators in Belgium (Elia), Netherlands (TenneT), Luxemburg (Cegedel Net), France (RTE) and Germany (EnBW TNG, E.ON Netz and RWE TSO) create common enterprise for cross-border services.

# BROAD OUTLINES IN ENERGY 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 2007 the Presidency was successively held by Germany and Portugal. 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 German and Portuguese Presidencies***

The German, Portuguese and Slovenian presidencies have jointly presented an 18 month programme, enabling longer term results than a 6 month period.

More concretely, the German presidency notes in its work programme that it intends to commit itself to a complete opening of the energy markets on the basis of a uniform application of European guidelines in all member States, thereby promoting competition.

The presidency stresses the need to improve energy efficiency by conservation and developing renewable energy.

The seventh research and development framework-programme must also allow the reinforcement of research and innovation in the energy sector.

Regarding foreign policy, the German programme wishes to contribute to the development of reliable and solid energy partnerships with the major supplying countries, consumers and transit countries, principally with Russia and the United States.

As for the Portuguese Presidency, its priorities are the internal gas and electricity market and more specifically ownership unbundling and the energy package from the Commission of January 2007 (coordination between national regulators, investment, grid operation and cross-border electricity exchanges).

To obtain the objective of producing 20% of electricity from renewable sources by 2020, Portugal intends to present its objectives and individual distribution modes for the different member States.

On the technology level, Mr Pinho, Portuguese Economy and Innovation minister, invites the European Union to stimulate research into energy efficiency, distributed electricity production, small distribution grids, clean coal technologies, combined heating and cooling,...He is committed to working on the external dimension of energy policy.

## ***Energy Council of 15 February 2007***

Meeting on the 15th of February in Brussels, the Energy ministers discussed the « energy and climate change » package tabled by the Commission on 10 January, in the perspective of the Spring European Council on 8 and 9 March which must, on this basis, adopt an action plan for European energy policy.

In its conclusions, spread over 5 chapters, it is the chapter of the « internal gas and electricity market » which provoked the greatest debate.

The Energy Council invites the Commission to elaborate the measures foreseeing an effective separation of production activities and grid operations. It does not explicitly insist on ownership unbundling.

The Energy Council also approved the elaboration, by the Commission, of measures foreseeing :

- greater harmonisation of powers and reinforcement of national energy regulators' independence;
- development of an independent mechanism enabling national regulators to cooperate and take decisions on important cross-border issues, corresponding to the ERGEG+ solution proposed by the Commission;
- creation of a new community mechanism for the TSO's in order better to coordinate transport grid operation and security;
- a more sophisticated integrated system for cross-border electricity and gas commerce, including elaboration of technical norms.

At the level of energy efficiency and renewable energies, the purely objective indicatives are confirmed. Having crossed out the term "binding", the Council henceforth cites as an objective a 20% share of renewables in global energy consumption in the EU by the year 2020. The initial situations in each country were deemed too different.

The Council has agreed a minimum binding objective of 10% for biofuels, which the member States must attain in petrol and diesel consumption by 2020.

To attain these objectives, the Council recommends a coherent global framework for renewables, which may be established on the basis of a proposal of a new global directive concerning the use of all renewable energy sources, which the Commission would present later in 2007.

The conclusions on the other elements (security of supply, the role of nuclear energy in the overall European offerings and international energy policy) did not provoke any particular debate. The ministers supported the Commission proposals.

### ***European Spring Summit of 8 and 9 March 2007***

The European Spring Summit of 8 and 9 March in Brussels adopted a global action energy plan for 2007-2009, on the basis of the "energy and climate change" package published by the European Commission on 10 January 2007.

Concerning the internal energy market, the European Council recognises that there still does not exist a truly competitive, harmonised and interconnected European energy market. It reaffirms its commitment to an integral development "respecting the spirit and the letter" of existing legislation relating to the opening of gas and electricity markets to enhance competition, assure an efficient, safe regulation and to encourage investment in the internal energy market for the benefit of consumers.

On the other hand, the Council invites the Commission to elaborate measures taking into account the characteristics of the gas and electricity sector as well as national and regional markets. This framework should enable, if need be by developing existing legislation, and effective separation of production/supply and grid activities, "on the basis of management systems of independent and appropriately regulated grids, guaranteeing equality and freedom of access to transport infrastructures, as well as the independence of decisions in matters of infrastructure investment".

On this issue, the European Council has strictly held itself to the compromise reached by the Energy Council of 15 February, in which are no longer mentioned the two options proposed by the Commission to reinforce unbundling, namely the public separation and the ISO solution.

The Council also gave its approval to the elaboration by the Commission of measures foreseeing a greater harmonisation of powers and the strengthening of national energy regulators' independence. A green light also for the implementation of an independent mechanism enabling national regulators to cooperate and take decisions on important cross-border issues: being a question of the ERGEG+ proposal from the Commission.

The 27 also agreed on the creation of a new community mechanism for TSO's. This tool will permit a better coordination and functioning of grids and their security, and the implementation of a more integrated system for cross-border electricity transactions and grid functioning, including the elaboration of technical norms.

Another step forward, the European Council accepted the Commission proposal to establish a charter encompassing energy consumers' rights.

The European Council invites the Commission :

- to determine what are the extra investments necessary to respond to the strategic needs of the Union ;
- to clarify, in view of the Energy Council of June 2007, the key measures envisaged and their impact ;
- to evaluate the impact on the internal market of vertically integrated energy companies originating from third countries ;
- to determine how to implement the principle of reciprocity ;
- to evaluate the access to gas storage in the Union.

Lastly, the European Council gave its support to the Commission proposal to nominate, should the need arise, coordinators to advance interconnexion projects of priority European interest.

At the level of security of supply, the European Council reaffirms the importance of an effective diversification of sources and supply avenues.

As for energy efficiency and renewable energy, the European Council agreed to the adoption of an energy efficiency objective aiming to save 20% of energy consumption in the Union relating to the projections for the year 2020. This ambitious objective will entail the complete implementation of the five priorities defined by the Energy Council of November 2006 :

- Energy efficiency in the transport sector ;
- Development of requirements for minimal energy performance for energy consuming devices ;
- Consumer energy awareness of rational and economical behaviour ;
- Development of energy technology ;
- Energy performance of buildings.

The Council also adopted ambitious objectives for renewables, namely :

- a binding proportion of 20% for renewable energy in the total energy consumption of the Union by 2020 ;
- a minimal binding proportion of 10% biofuels in the total consumption of petrol and diesel for transport in the Union by 2020.

In addition, on the basis of the general objective adopted for renewables, differentiated objectives must be elaborated on the national level "ensuring a just and appropriate apportionment taking into account the different initial states and the potential of each member State, including the current level of renewables and energy mix..."

To attain these objectives, the European Council advocates a coherent global framework to be presented by the Commission in 2007, established on the basis of a new global directive concerning the use of all sources of renewable energy. This proposal must notably comprise :

- dispositions concerning the global objectives of member States on a national plan ;
- national action plans with sector objectives ;
- measures to be taken as well as dispositions aimed at assuring sustainable production and use of bioenergy and to avoid discords linked to different uses of biomass.

### ***Energy Council of 6-8 June 2007***

The principle conclusions to be drawn from the political debate on the internal gas and electricity market during the Energy Council from 6 to 8 June in Brussels are :

- on the one hand, the 27 are very far from a consensus on the issue of separation of production/supply activities and energy grid operators (unbundling) ;
- on the other hand, according to the energy Commissioner, A. Piebalgs, a majority among them oppose the Commission ownership unbundling proposal.

Several member States have effectively stated their opposition to the option of total degrouping. During the debate, the German economy minister, Michael Glos, said he had the impression that even if a com-

plete accord has not been reached, we are moving towards an independent grid operator which appears rather to correspond to the second Commission proposal in its January package (ISO option).

A. Piebalgs announced that he will table, despite opposition, a proposal on ownership unbundling in the legislative package framework. Ownership unbundling would not be envisaged for distribution grids, merely transport grids.

Beyond the separation issue between production/supply activities and grids (transport and distribution), the energy ministers debated three other important themes relating to the internal market :

### **1. Regulation efficiency**

A broad consensus has grown up around the Commission proposal to perfect an independent mechanism enabling national regulators to cooperate and take decisions on important cross-border issues. The preferred option of the Commission is an “EREG +”, an EREG with strengthened powers. Beneath this mechanism aimed at improving the regulatory framework and strengthening the powers and independence of national regulators, EREG would be confided with the mission of structuring binding decisions for the regulators and market actors concerned, bearing on technical codes and mechanisms concerning cross-border aspects. The Commission proposal enjoyed wide support.

### **2. Suitability of infrastructure investment**

The discussions on investment and measures necessary to broaden and develop the grids also arrived at converging views. Many member States stressed above all the need for a stable and predictable regulatory framework and strengthened cooperation between on the one hand regulators and the other hand transport grid operators (TSO's). As well, countries favourable to the total ownership separation option – at least for transport – underlined the importance for investment.

The majority of the new member States have for their part stressed the need to increase support for the development of transeuropean energy grids and priority interconnection projects. The Eastern countries highlighted the need for a European coordinator for priority projects.

### **3. Cooperation among TSO's**

A broad consensus has emerged on the Commission proposal to formalise the role of the existing community mechanisms – federations of electricity transmission operators (ETSO) and gas transmission operators (GTE) – in order to strengthen cooperation between the TSO's and to better coordinate grid functioning and safety on a European scale. Most member States were said to be favourable to an “ETSO +” option and several States stressed that the formalisation of the TSO gas group in a “GTE +” would also prove useful. Given enhanced powers, these groups would be able to propose harmonised and binding rules to improve the management and functioning of grids which would be approved by the member States, regulators and the Commission. They would then be charged with watching over the enforcement by their members of the rules thus formulated, with subsequent penalties in case of non-compliance.

Certain member States, Portugal and Luxembourg notably, have also stressed the importance of a regional approach.

On the other hand, the solution consisting of putting into place a new European centre for electricity transport coordination, which would watch over the proper coordination of TSO's to limit to the maximum risks of major incidents or generalised blackouts, was not upheld.

### ***Energy Council of 3 December***

The Energy Council, meeting on 3 December in Brussels, endorsed the progress work report on the third legislative package. In the course of the public debate, all the member States generally welcomed the progress report of the Presidency.

According to the progress report, on the basis of which were held the discussions of the Energy Council, “a significant number of member States deems that the best way to attain the objective of decoupling activities is the dissociation of ownership structures at the TSO level. Notwithstanding, several member States are wondering about the proportionality of the proposed dispositions concerning ownership unbundling or the independent grid operator (ISO), which they consider infringe property rights”. These same member States deem, as well, that the substitution solution proposed (ISO) constitutes a



particular form of ownership unbundling, since it imposes a dissociation of ownership structures from the organ responsible for infrastructure management. For them, “the ISO could not be presented as a true substitution solution.”

It was agreed at the Council that it is necessary rapidly to take an appropriate decision and the refractory member States are requested to present a concrete substitution solution which the Commission is willing to examine closely.

Commissioner Piebalgs is ready to discuss with the member States who continue to have doubts, but warned that “the Commission does not intend to withdraw its proposal which it deems worthy”, with a reminder that at the end of the day “the situation must be identical in the member States to avoid distortions”.



### ***European Council of 14 December***

The EU heads of state and government, meeting on the 14th of December in Brussels in European Council, noted the progress realised during discussions on the third energy package and added that these discussions must be rapidly concluded, in order to permit a timely agreement in the course of the year 2008.

The European Council eagerly awaited the second series of legislative proposals concerning renewable energy, which the Commission subsequently presented on the 23rd of January 2008.

The European Council favourably receives the Commission paper on the strategic plan for energy technologies.

In order to assist the Union to anticipate and more efficiently take up long term challenges (2020-2030 horizon), the European Council has created an independent think tank which is invited to list the issues and fundamental evolutions – notably concerning energy – with which the Union is likely to be confronted and to study the appropriate solutions. The group will present its report during the course of the June 2010 European Council session.

# INTERNAL GAS AND ELECTRICITY MARKET

In the course of the past 12 to 18 months, numerous changes have arisen at the level of gas and electricity markets : publication of the green paper and lively debates within the European Parliament and among ministers of member States on « safe, competitive and sustainable energy », the announcement of a third package of directives with concrete measures to reform the energy sector and a series of takeovers and mergers of energy corporations.

From the inception, the principle challenge has been to respond to the question « How to transform a monopolistic market into a competitive market ? »

## AN INTEGRATED ENERGY AND CLIMATE POLICY FOR EUROPE

On 10 January, the Commission proposed an integrated package of measures in the energy and climate change area in order to enhance energy safety and competitiveness and to reduce greenhouse gas emissions in the EU.

In its communiqué entitled « An energy policy for Europe », the Commission pleaded in favour of a common energy policy, aimed at endowing Europe with sustainable and competitive energy, whose strong points are promotion of competitiveness by an incentive regulatory framework, struggle against climate change as well as the limitation of EU dependence on imported gas and oil.

By means of this communiqué, the EU has fixed itself the ambitious goal of reducing greenhouse gas emissions by 20% by 2020 and going further (up to 30% over the same period) in the framework of an international accord. The communiqué highlights the promotion of renewable energy and the enhancement of energy efficiency, the completion of the internal gas and electricity market and a coherent external energy policy. It also stresses internal and external solidarity among the member States. The communi-

qué presents a 2007-2009 action plan and is accompanied by the first package of concrete proposals.

In the course of the European Council of 8 and 9 March, the foundation of a European energy policy containing commitments, binding objectives and procedures was adopted :

- concerning the internal gas and electricity market, the need of assuring an effective separation of supply and production activities, on the one hand, and grid management on the other (decoupling) ;
- concerning renewable energy, the binding objective of 20% by 2020, with a 10% minimum share of biofuels in the totality of EU diesel and petrol consumption.
- as for climate change, a commitment independent of the EU to reduce greenhouse gas emissions by at least 20% by 2020, compared to 1990, as well as a commitment to bring this reduction to 30% if other industrialised countries undertake reductions of similar magnitude.

Since the 1st of July 2007, deadline for the complete opening of electricity and gas markets in the EU, all consumers should be able to freely choose their energy supplier. Market liberalisation, for the European Commission, is defined by the absence of judicial or administrative obstacles to the entry of new companies to the market of gas and electricity supply to the population.



At this same date, local electricity and gas utilities which have over 100,000 customers must be organised as independent judicial entities. At the transport level, legal unbundling has been mandatory since 2003.

In the margins of this liberalisation, the Commission adopted on 5 July 2007 a communiqué entitled “Towards a European charter of energy consumer rights”. It follows up the communiqués of 10 January 2007 bearing, respectively, on energy policy (see above), in which the Commission is fully committed to ensuring that consumer interests are completely taken into account. The energy ministers and heads of state of the EU have also called for better consumer protection, taking into account the complete opening up of EU energy markets in July 2007.

Although the Electricity and Gas directives (2003/54/CE and 2003/55/CE) already established consumer rights in the energy area, with guarantees for vulnerable citizens, it behoves us to clarify these rights and to verify their effective application taking into account the complete opening up of the market.

The charter defines consumer rights in the area of electricity and gas supply from the point of view of contracts, information, prices, norms and protection in the face of unfair commercial practices.

**This charter has been the object of a public consultation to which CEDEC replied with an opinion on 19 September 2007. Relative to the measure referring to the placement of individual counters which measure and communicate effective consumption in real time and which furnish information on the time when the energy has been utilised, CEDEC draws attention to the search for a good economic balance between the certitude of costs and the benefit potential, particularly for residential customers.**

## DEVELOPMENT OF INTERNAL ELECTRICITY AND GAS MARKET

In its 10 January package, the Commission included a communiqué entitled “Internal gas and electricity market perspectives”. It highlighted the current state of the internal market.

The Commission had examined in detail the implementation of current electricity and gas directives legislation, which had led it to send, in December 2006, 26 opinions directed to 16 member States for non-compliance in these directives and to establish a link with the results of its analysis in the competition sector.

This final report of the sector enquiry, established by the services of competition Commissioner Neelie Kroes, demonstrates that numerous obstacles to free competition, notably regarding access to infrastructure, lack of investment in interconnexions and excessive market concentration, have not yet enabled the establishment of a truly competitive gas and electricity market.

The European Commission communiqué on « An energy policy for Europe » also being part of the 10 January energy package, ERGEG issued an opinion in February 2007, considering that new European legislation is necessary to assure, in particular :

- an effective separation, affirming its preference for ownership separation for transmission grids and expressing no proposal on separation of distribution grids ;
- an independent and effective regulator in each member State and a regulatory structure on a European level, by developing an ERGEG+ which would supervise the development of integrated European grids for gas and electricity.

The opinion of CEDEC contains among others the following positions :

**CEDEC :**

- deplores the absence of measures to reduce market concentration and the lack of liquidity in wholesale markets ;
- considers that the conclusion according to which the effective separation between grids and competitive activities is impossible given the current legal framework, is premature, for distribution grid managers ;
- recognizes the necessity of placing on an equal footing powerful national regulators, and developing an ERGEG+ for cross-border problems.

Subsequent to intensive exchanges of viewpoints on the different documents of the energy package, and after having heard the presentations of several representatives of the European Commission from the 10th of January 2007, uncertainties arose as to the exact content and field of application of the structural measures proposed by the Commission concerning the energy package and more specifically concerning the issue of ownership unbundling.

**CEDEC, in the course of a very constructive conversation with the energy commissioner A. Piebalgs, clarified that ownership unbundling at distribution level risks leading to the sale and privatisation of supply and production activities of local energy (public) utilities, thus reinforcing energy market concentration and thereby entailing a reduction in competition in production and supply. Furthermore, CEDEC insisted that the exemption for distribution utilities having fewer than 100,000 customers be maintained, as a drastic separation would inevitably lead to an increase in grid costs and thus fees for small and medium sized businesses.**

**In the framework, among others, of differences of interpretation regarding the exact definition and application of property unbundling, and faced with the problematic of intelligent counters, CEDEC has also met different representatives of DG Energy et DG Competition, to make its position heard.**

Furthermore, following the ERGEG public consultation of 30 April 2007 concerning the project of guidelines for ERGEG best practices relating to functional and informational unbundling, which will serve as a base for the Commission to find a better way to realise a functional unbundling in the current legal framework, CEDEC has, once again, expressed its opinion relating to this subject, reiterating its fear, faced with the different proposed measures on the unbundling level, for small scale distribution grid operators.

As far as interconnexions are concerned, the Commission adopted, also on 10 January 2007, a communiqué entitled « priority interconnexion plan ». The goal is the elaboration of an interconnexion plan and the facilitation of the implementation of priority infrastructure projects, thereby contributing to the diversification of energy supply and to the integration of regional markets in the internal market.

On 12 September, the Commission nominated four European coordinators to facilitate the implementation of three electrical interconnexion projects and the major « Nabucco » gas pipeline.

On 19 September, the Commission adopted a legislative proposal package having as a goal the completion of the internal electricity and natural gas market. The measures proposed were foreseen in the European Commission communiqué of 10 January 2007, entitled “An energy policy for Europe”, which was approved by the European Council in March 2007 and which also took into account the opinions published by ERGEG in June 2007.

These measures concern :

- the modification of directives 2003/54/CE and 2003/55/CE concerning common rules for, respectively, the internal electricity and natural gas market ;
- a rule instituting a cooperation Agency for energy regulators ;
- modification of rules n° 1228/2003 and n° 1775/2005 concerning conditions, respectively, for grid access for cross-border electricity exchanges and natural gas transport grid access.

These proposals have as a goal :

- the separation of transport grids :

the option preferred by the Commission is that of ownership unbundling, in which the electricity and gas transport grids must be separated from production and supply activities. Thus, distribution utilities are not implied, Neelie Kroes explicitly confirmed during a lecture on 19 September "Launching the Third Liberalisation Package". This affirmation joins the opinion of ERGEG which also does not recommend the application of ownership unbundling at distribution level. The Commission proposes, however, a second option, that of « independent grid operator », which must nevertheless answer to very severe conditions.

France and Germany are the most opposed to ownership unbundling. The European Parliament, on its part, pronounced in favour of ownership unbundling, adopting by a wide majority the Alejo Vidal Quadras report "Prospects for the internal gas and electricity market" in the course of its plenary session of 10 July 2007.

**CEDEC, in its press release concerning this third legislative package, commended itself that the distribution grid operators have escaped this ownership unbundling and also favours the decision to maintain the existing exemption for small and medium sized distribution utilities (fewer than 100,000 customers).**

- promotion of collaboration among TSO's

In this framework, it is foreseen to create a new European network for transport grid operators, on the basis of existing structures ETSO (electricity) and GTE (gas). This network will enable the elaboration of technical safety norms and commercial and common technical codes.

- creation of a European Agency

The Commission proposes the creation of a national energy regulators cooperation Agency which will guarantee a more satisfying treatment of cross-border issues and which should enable the EU to put into place a true single European grid.

**CEDEC, in its opinion, considers that this agency probably constitutes an efficient instrument to deal with cross-border issues, but it deems that necessary respect should be given to the principle of subsidiarity and to national regulators.**





#### - Consumer protection

The legislation proposed contains as well specific measures which reinforce the position of consumers on the market. Suppliers must, among other things, ensure that their customers are informed more frequently about their energy consumption and its cost.

These measures were examined during the Council of EU energy ministers on 3 December 2007. The theme which was principally discussed in the course of this meeting was ownership separation. According to a progress report, on the basis of which were held the Energy Council discussions, "A significant number of member States consider that the best way to attain the goal of decoupling activities is the dissociation of ownership structures at the TSO level. However, several member States are wondering about the proportionality of the dispositions proposed in what concerns ownership unbundling or independent system operator (ISO), which they consider infringes property rights". These same member States find, besides, that the substitution solution proposed (ISO) constitutes a particular form of ownership unbundling, since it imposes a dissociation of ownership structures of the organ responsible for infrastructure management. For them, "the ISO could not be presented as a true substitution solution."

It was agreed at the Council that it was necessary to rapidly issue a suitable decision and the refractory member States to the two options were asked to present a substitute solution. This "third way" solution, addressed to the European Commission by the eight member States concerned, at the end of January 2008, proposes an "effective and efficient separation" which appears to find its inspiration mainly from the acquis of the second directive.

The « third package » is currently being analysed by the European Parliament, which has decided to divide the treatment of this energy package into five documents (internal electricity market, internal gas market, creation of a European agency, conditions of access to electricity and gas transport grids). These documents will be submitted to separate discussions and votes, for which five rapporteurs have been nominated, among whom Eluned Morgan for the electricity directive and Romano Maria La Russa for the gas directive.

## OBJECTIVES FOR A EUROPEAN CLIMATE POLICY



On 10 January 2007, the Commission adopted an integrated package of measures in the area of climate

change and energy. It invites the Council and the European Parliament to approve on the one hand a commitment to reduce by at least 20% greenhouse gas emissions on the 2020 horizon and, on the other hand, a mandatory goal for the EU of 20% renewable energy by 2020, and 10% biofuels.

This strategy was approved by the European Parliament and the leaders of the EU in the course of the European Council of March 2007. The Council invited the Commission to present concrete proposals, notably on the modalities of sharing out the effort among the member States.

The Energy/Climate package adopted 23 January 2008 constitutes the reply to this invitation and includes a bundle of legislative proposals, namely :

- a proposal modifying the directive concerning the community emissions quota exchange system ;
- a proposition relative to the sharing out of effort to comply with the independent community commitment to reduce greenhouse gas emissions in sectors not covered by the community emission quota exchange system ;
- a directive proposal destined to promote renewable energy sources in order to contribute to the realisation of the two cited objectives relating to emissions.

Among the proposals which compose this series of measures also figure a legislative framework proposal regulating carbon capture and stockpiling, a communiqué on the demonstration of carbon capture and stockpiling and a new community framework for State aid relating to the environment.

## ENERGY TECHNOLOGIES

In its Communication adopted 10 January 2007, entitled “Towards a European strategic energy technology plan”, the Commission stresses the need for a profound change in favour of innovation in the field of European energy technologies, departing from fundamental research and arriving at market domination, to accelerate the development and deployment of affordable, clean, efficient and low carbon technologies.

On 22 November, the Commission presented a strategic European plan for energy technology, which is inscribed in the energy policy elaborated by the European Council in March and which aims essentially to accelerate the development and deployment of future low carbon technologies.

This strategic plan for energy technologies formulates concrete action proposals in view of implementing a long term process.

## ELECTRICITY PRODUCTION AND FOSSIL FUELS

Also in its energy package of 10 January, the Commission adopted a communiqué entitled “Sustainable electricity production from fossil fuels : towards emissions from coal fired electric plants tending to zero after 2020”. While recognising the importance of fossil fuels and the essential role of coal in security of energy supply, it insists on the need to render their use compatible with the goals of sustainable development and policy in matters of climate change.

## ENERGY SOLIDARITY AMONG MEMBER STATES

On 26 September, the European Parliament adopted a resolution entitled “Towards a common European foreign policy on energy”. It requests the implementation, at the European level, of a common foreign policy relating to energy, which would contribute in a significant manner towards guaranteeing energy security throughout the Union, while pursuing the objective of a sustainable policy at the international level. It recommends also that, in the mid term, the Commission be given the institutional competence to negotiate framework agreements from the Union with third countries in matters of energy supply.

## PARLIAMENTARY WORK

The year has been marked by a growing preoccupation with the stakes linked to energy and climate change. On the energy plan, discussions have dealt with varied aspects :

- Macro-economic impact of the increase in the price of energy, report from Manuel Antonio dos Santos adopted 15 February 2007 by the European Parliament.
- Alejo Vidal-Quadras report on prospects for the internal gas and electricity market. This report was adopted 10 July 2007 in plenary session at the European Parliament. It pronounces in favour of ownership separation at the level of transport activities for electricity – the Parliament does not pronounce specifically on distribution – all the while adopting a more flexible approach for the gas sector which would necessitate specific solutions taking into account differences between upstream and downstream markets. Furthermore, the text adopted foresees ending progressively the application of generalised regulated fees, all the while ensuring the existence of sufficient measures to protect vulnerable consumers, in particular concerning energy precarity. The text also calls on the member States to stop promoting national champions and to abstain from adopting protectionist laws which hinder the implementation of a truly integrated European energy market. Lastly, the Parliament commends itself for the indicative goal of 10% interconnexion between the member States.
- The report from Britta Thomsen concerning the roadmap for renewable energy in Europe was adopted by the Parliament in plenary session on 25 September 2007. It calls for in particular a sectoral legislative approach with clear and binding targets for the electricity, transport and heating-cooling sectors. The text adopted underlines the importance of realising the goal of 20% renewable energies on the 2020 horizon and the promotion of biofuels.
- Towards a common foreign policy in the energy field : since the gas crisis between Russia and Ukraine in January 2006, the EU has become

aware of its precarity relating to energy supply. Since then, the EU has been seeking to secure its supply and diversify its suppliers. To bring about a foreign energy policy, the Jacek Saryusz-Wolski report concerning “a foreign energy policy”, adopted in plenary session of the European Parliament on 26 September 2007, proposes the rapid creation of a post of “special high representative for energy”, in order to coordinate the activities of the EU in this matter. The report also proposes the introduction of an energy security clause in all accords concluded between the EU and supplier and transit countries, on the basis of the principle of reciprocity.

Lastly, the report refers to the Treaty on the energy charter, an intergovernmental treaty which promotes long term cooperation in the energy field.

- If current trends continue, the EU will depend on imports to cover 65% of its energy needs by 2030. However, gas and electricity deliveries are constantly uncertain due to political risks and rising demand elsewhere. The need to produce and utilise energy in a more secure way is stressed in the Herbert Reul report on “Conventional energy sources and energy technology” adopted in plenary session 24 October 2007.
- The Fiona Hall report on the « Action plan for energy efficiency : realising the potential » was adopted 31 January 2008 in plenary session of the European Parliament. It particularly stressed the ambition of the Action plan to enhance energy efficiency by more than 20% by 2020. The Parliament also supported the goal of the Plan and its key objectives : furnish European citizens with more energy efficient infrastructure, buildings, appliances, transport and energy systems, all the while encouraging citizens to use energy in the most rational way possible.

## FLORENCE FORUM – MADRID FORUM

CEDEC took part in 2007 in the electricity regulator Forums (known as Florence Forum) and gas (known as Madrid Forum).

The Florence and Madrid Forums are made up of representatives of the European Commission, national regulatory authorities (CEER-EREG),

member States, consumers (IFIEC, BEUC) and organisations representing market forces : producers, suppliers and traders (Eurelectric, Eurogas and EFET) and transport and distribution grid operators (ETSO, GTE, CEDEC).

In general, it is mainly problems dealing with transport (interconnexions), stockpiling and production which are discussed. Problems relating to distribution have up to the present been too little dealt with.

### **12th Madrid Forum – 20 and 21 February 2007**

CEDEC took part on 20 and 21 February in the 12th Madrid Forum, during which it presented its position relating to the chapter “European energy strategy”. As a reminder, this position was developed in the chapter “Development of the internal gas and electricity market”.

EREG’s position referred to ownership unbundling for distribution grid operators, which EREG deems unnecessary.

### **14th Florence Forum – 24 and 25 September 2007**

On 24 and 25 September, the energy and industry ministers and market actors discussed with the European Commission and regulators the third legislative package from the Commission.

The conclusions notably mention the intervention of CEDEC, in the sense that it supports the Commission proposal, while underlining the *acquis* for distribution.

### **13th Madrid Forum – 16 and 17 October 2007**

CEDEC took part in this forum which took place on 16 and 17 October. This forum was dedicated to transparency, interoperability and new investment in the gas sector.

EREG presented its conclusions concerning compliance with transparency obligations by the gas TSO’s : it appears that the existing legislation is insufficiently enforced.

Non-compliance by certain member States of Community regulation worries the Commission,

which has reiterated the necessity of implementing not only the letter but also the spirit of European legislation aimed at liberalising the energy market.

The Madrid Forum recalled that the improvement of cooperation between the TSO's, announced by GTE (The European Association of gas transport grid operators) is but one of the three pillars of legislative proposals, the others being reinforcement of cooperation in matters of regulation and the effective separation of production/supply and transport activities.

Also, the forum favourably received the announcement of Europex, the European Association of electricity exchanges, which will look into the possibility of creating a European Association of gas exchanges.



# TREATY OF LISBON

On 18 October 2007, representatives of the member States of the European Union reached agreement on the modifying Treaty which amends (without replacing) current European treaties. It will provide the Union with the legal framework and tools necessary to meet future challenges and to respond to citizens' expectations. This modifying Treaty will be called "Treaty of Lisbon" and was officially signed on 13 December 2007.

Generally reinforcing local and regional authorities in the European Union, it also includes articles concerning energy and environment to be taken into account by CEDEC :

- Article 122 mentions that the Council can take, on initiative of the Commission, in a spirit of solidarity among member States, measures appropriate to the economic situation, in particular if serious difficulties occur in the supply of certain products, notably in the energy field.
- Concerning energy policy in the framework of the internal market and environmental protection, article 194 of the Treaty of Lisbon specifies that the policy of the Union in the energy field aims to :
  - « assure the functioning of the energy market »;
  - « assure security of energy supply in the Union »;
  - « promote energy efficiency and energy conservation as well as the development of new and renewable energies »;
  - « promote interconnexion of energy grids ».

In this field, the European Parliament and the Council establish the necessary measures to attain these goals. These measures are adopted after consultation of the Committee of Regions and the Economic and Social Committee. The measures adopted as the energy policy of the Union do not affect the right of a member State to determine the conditions for exploiting its energy resources, its choice among different energy sources and the general structure of its energy supply.

At the protocol level, that of application of principles of subsidiarity and proportionality, and that which

mentions advances for services of general interest, merit a special mention :

- The strengthening of the principle of subsidiarity aims at assuring decision taking as close as possible to the citizen while determining the most relevant level of intervention. The EU cannot act in places where the action of local authorities is more appropriate, as the Treaty specifies that the Union intervenes " only if and where the objectives of the envisaged action cannot be attained in a sufficient manner by the member States, at the central, regional and local level". Subsequently, all legislative acts should be accompanied by a file demonstrating that the principles of subsidiarity and proportionality are respected, and evaluating the financial impact and the implications of the act on national rulings and, if need be, on local rulings.
- As for the protocol highlighting advances for services of general interest, it notably recognises "the essential role and broad discretionary power of national, regional and local authorities to furnish, execute and organise services of general interest in a manner that responds as much as possible to the needs of the users". The common values relating to services of general interest are underlined : diversity, high level of quality, security and accessibility, equal treatment and promotion of universal access and users' rights.

Furthermore, concerning non economic services of general interest, this protocol stipulates that the dispositions of the treaties do not infringe in any way the competence of the member States to furnish, execute and organise these services.

The Treaty of Lisbon must be ratified by the 27 member States. It is up to them, in conformity with their constitutional rules, to choose the mode of ratification.

The member States have stated as a goal implementation on the 1st of January 2009, several months before elections to the European Parliament.





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