



GEODE Position Paper on the Proposal “Effective and Efficient Unbundling of Transmission System Operators”

Summary

On January 29 2008 eight Member States (Austria, Bulgaria, France, Greece, Germany, Latvia, Luxembourg, and Slovakia) have presented an alternative third way to Ownership Unbundling (OU) and an Independent System Operator (ISO). The proposal intends to enforce the rules for an “Effective and Efficient Unbundling of Transmission System Operators” (EEU). OU and ISO are in principal rejected by these Member States as they see these means as incompatible with constitutional law, free movement of capital and the principle of proportionality.

The EEU is based on two pillars. The first pillar contains provisions for the organization and governance of the vertically integrated undertaking to ensure effective independence. The suggestions in the second pillar aim to establish a better framework for necessary investments in the grid, improved market integration, and the connection of new power plants.

GEODE welcomes every step forward to increase transparency, third party access, and market competitiveness on TSO level. The current proposal for EEU however cannot be a real alternative to a complete ownership unbundling of transmission networks.

GEODE Position

The proposed model of Effective and Efficient Unbundling (EEU) does not fulfill the mandate set by the Heads of States and Governments in March 2007:

“Effective separation of supply and production activities from network operations (unbundling), based on independently run and adequately regulated network operation systems which guarantee equal and open access to transport infrastructures and independence of decisions on investment in infrastructure”.

GEODE repeats its strong support for the idea of OU on the TSO level and therefore rejects the proposals in the first pillar as they are designed to establish an alternative to full OU. The provisions are a mere elaboration of the current unbundling system in place, without solving the problems inherent in vertically integrated companies on the transmission level. Disincentives to invest in the network and interconnections remain as well as intransparency in the decision-making process within the TSO and the risk of discrimination of third parties regarding access to the network. **GEODE** deems the proposals in the first pillars as not far-reaching enough:

- the independence of the TSO is not guaranteed as the parent company retains influence in the network branch; only full OU is able to ensure independence and transparency of the transmission network;
- further operational unbundling requirements will lead to more bureaucracy and increased regulatory oversight without leading to more market competitiveness;
- investment in the network on a non-discriminatory basis is not sufficiently guaranteed;
- a lack of regulatory supervision on such investment in the transmission grid remains.

The second pillar contains some aspects that may complement the introduction of OU on the national level. OU itself does not alone solve the problems regarding the grid development and connection of new power plants to the transmission grid and the insufficient level of interconnection. **GEODE** would like to highlight the following ideas of the EEU proposal:

- obligation for TSO to establish and publish transparent and non-discriminatory procedures for the connection of new power plants that are subject to approval of the NRA;
- TSO can not refuse the connection on the basis of costs for the necessary capacity increase of grid elements linked with the connection;
- the idea of an increased regional cooperation is generally welcomed, but the proposals in the second pillar have to be rejected as they weaken and dilute the idea of a regional independent system operator; the proposed voluntary forum of cooperation with no distinct separation from the TSO involved and no binding powers will not improve third party access at cross-border level or increase investment in interconnections.