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Press release

22 May, 2008

Natural gas transit tariffs: the CREG decides in the general interest

An incomplete knowledge of matters relating to transit causes erroneous information to be disseminated in the press. The CREG has definitely decided in the general interest.

Timing of the decision – the CREG is not interfering in the sale of S.A. Distrigaz

On 14 September 2006, the CREG had already let it be known that transit contracts for natural gas did not fall under the competence of Distrigaz&C^o (the wholly-owned subsidiary of the public limited company S.A. Distrigaz), but under that of the public limited company S.A. Fluxys. Likewise, the CREG had taken a stand as regards the validity (or otherwise) of the transit contracts entered into by Distrigaz & Co. At the time, all the parties concerned were already aware of the CREG's position regarding the transit contracts for natural gas.

After September 2006, the CREG conferred amply with all the parties concerned: the shareholders, the companies involved and the authorities. No argument liable to jeopardise the CREG's analysis was advanced.

The procedure for establishing the regulated tariffs for the transit of natural gas was initiated at the end of June 2007, after the (admittedly belated) transposition of the second gas directive into Belgian law, at the time when S.A. Fluxys submitted its tariff proposal to the CREG. Since the file did not comply with the legal provisions as far as transit was concerned, the CREG first asked for a reworked proposal, which was still not satisfactory. Consequently, on 19 December 2007, the CREG established in a comprehensively reasoned decision, that it had to impose provisional tariffs, according to the law, from the moment it had enough data at its disposal. It gave Fluxys formal notice to provide it with additional information to this end. At Fluxys' express request, a deadline of 21 March 2008 was agreed.

After studying the additional information obtained on 21 March the CREG was able, in accordance with the statutory and regulatory framework, to fix the transit tariffs for natural gas as provisional tariffs on 15 May 2008, again further to an amply reasoned decision. In so doing, it applied the approach already used in its decision of 14 September 2006: only four transit contracts can benefit from the sanctity of contracts, on the grounds of the European and Belgian statutory framework. This means that for these four contracts, the contractual price (and not the regulated provisional tariff) can continue to be applied.

Consequently, in conformity with its mission, the CREG has done no more and no less than apply the regulatory and statutory framework, as regards both form and content.

Reproaching the CREG for this amounts to ignorance of the CREG's statutory mission and constitutes an attack on European and Belgian legislation in force in this field.

Obviously the CREG knew that its decision on network tariffs for transit, established on the basis of the procedure initiated in June 2007, could have an impact on S.A. Distrigaz. As was mentioned above, the CREG had already pointed out in September 2006 that Distrigaz&C^o was acting counter to the second gas directive. It was therefore clearly Distrigaz&C^o that failed to comply with the applicable European and Belgian statutory framework. A regulator cannot be expected to validate an illegal situation. The current impact on S.A. Distrigaz of the decision on transit is thus a result of the failure to regularise Distrigaz&C^o's situation, in accordance with the law.

The decision does not harm the Belgian economy or security of supply

The CREG decided that four transit contracts could benefit from the sanctity of contracts. This will exert a downward pressure on the price if the Distrigaz&C^o transit contracts are taken over by S.A. Fluxys. In this way both S.A. Fluxys and Belgian natural gas consumers are protected. Indeed, if Fluxys were to have to pay the full price for the transit contracts and if these contracts were not to generate the expected income due to uncertainties linked to the sanctity of contracts, this would be charged to Belgian natural gas consumers.

In addition, the CREG's decision preserves Fluxys' investment capacity. By not paying too high a price for the transit contracts, Fluxys' borrowing capacity is not put at risk.

The comparison with a company from Zeebrugge or from Aachen is not valid since every company has to pay transport tariffs on top of the transit tariffs. Therefore, it is difficult to see how Belgian companies would find themselves placed at a disadvantage. On the contrary, the CREG's decision will attract foreign companies to the Belgian transit market. In the long run this will most probably create synergies on the Belgian gas market. And this will make it possible to achieve what Belgian companies have been asking for a very long time: a liberalised European natural gas market. If it is claimed, in other countries, that "there's no point creating less value for income coming from abroad", Belgian companies will also pay far too much, for example, for gas supplies from Russia, in which case the gas has to transit through a large number of countries, or from other gas-producing countries.

There will not be, and there may not be, any increased competition in the field of use of the transit infrastructure to which the transit tariffs apply. Indeed, the infrastructure is subject to a legal monopoly. The competition therefore has to stem from the "molecule", i.e. it has to be done by means of companies carrying out their own extraction of natural gas or holding a strong gas supply portfolio.

For the moment, Belgium has competitive provisional transit tariffs. This will no doubt attract more transit flows, which will also be to the benefit of security of Belgian supply.

Finally, account should also be taken of S.A. Fluxys' transport tariffs. These had been fixed provisionally by the CREG in December 2007, pending the securing of an agreement between S.A. Fluxys and the CREG. Now that the CREG knows the correct allocation of the costs of the transit activities, it can, in accordance with the regulations, effect the corresponding allocation of the transport costs. This will then make it possible to implement a substantial reduction in the tariffs for domestic transport.

The decision does not lead to a reduction in investments made in the development of the network

The Gas Act guarantees investors in infrastructure that the investment cost plus an adequate profit margin are passed on in the network's prices and can therefore be recovered. What that amounts to is that there is hardly any risk at all associated with the investments made.

Moreover, the Act offers the possibility of benefiting from the higher return on investments made in new projects or in extensions. The objective here is to motivate investors: the CREG's decision on provisional transit tariffs does not have any bearing on this whatsoever.

On the contrary, in the past the CREG has already agreed to a higher return on a new infrastructure or an infrastructure extension, as occurred in the case of the extension of the LNG terminal at Zeebrugge. For the RTRbis and North-South projects, the CREG also agreed to the principle of a higher return on the investment. In its decision of 20 May 2008 the CREG agrees to a return of 9% on the capital invested (before tax). The CREG feels that a return of this kind on a monopoly activity (network management) will make it possible to convince sufficient investors.

CONCLUSION:

The CREG's various decisions in the field of transport tariffs and transit tariffs for natural gas have been taken in the general interest:

1. Gas consumers are protected against the possibility of the Distrigaz&C^o transit contracts being taken over by Fluxys at too high a price.
2. A 9% return on the capital invested for a monopoly activity constitutes an incentive that makes continued investment in the Belgian gas network possible. S.A. Fluxys has the prospect of a high profit margin for the investment projects it is envisaging (RTRbis and North-South).
3. The advantageous transit tariffs will attract foreign companies, offering genuine opportunities for the creation of synergies on the Belgian market.
4. Belgium becomes more attractive as a transit country, which will benefit security of supply and the Belgian economy.
5. A more balanced distribution of the transport and transit costs will lead to a major reduction in domestic transport prices, to the benefit of all Belgian gas consumers.
6. Distrigaz&C^o's non-regulated monopoly profits, which were never reinvested in the gas network, will decrease.
7. The profits from transit activities can at last be of benefit to Fluxys, which will be able to use them to invest in its network.

The CREG is the federal regulatory body for the gas and electricity markets in Belgium, and was established pursuant to the law of 29 April 1999 on the organisation of the electricity market and the law of 29 April 1999 on the organisation of the gas market and the tax status of electricity producers. The CREG has a twofold role: to act as an advisory body to the public authorities, on the one hand, and to oversee and monitor application of laws and regulations, on the other.

Additional information for the press:

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