

The background of the slide is a composite image. It shows a view of Earth from space, with the planet's curvature and city lights visible. Overlaid on this is a complex network of glowing blue lines and nodes, representing energy grids or data connections. The lines are bright blue and have a soft glow, connecting various points across the globe.

Opening of Markets, Establishment of Regulatory Framework

EU4Energy Training

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Market opening

- Market opening involves the process of transitioning the energy sector from a state-controlled or monopolistic system to a free and competitive market structure.
- Steps for market opening include:
 - Establishing efficient, transparent, and non-discriminatory regulatory framework that fosters competition. This includes defining roles and responsibilities, establishing procedures, setting market rules, protecting consumer interests and providing enforcement mechanisms.
 - Unbundling of system operators – effective separation of natural gas infrastructure activities from commercial interests by ensuring their legal, functional, administrative, operational and decision-making independence
 - Third-party access (TPA) - guarantees that suppliers can access the transmission and distribution networks.
 - Establishing tariff regulation for network usage, ensuring they are fair, transparent, and cost-reflective.

The Aim of Unbundling

Effective separation of natural gas infrastructure activities from commercial interests by ensuring their legal, functional, administrative, operational and decision-making independence

Unbundling is essential to prevent any one entity from monopolizing the entire supply chain, allowing for competition at each stage

Without effective separation of networks from activities of production and supply, there is an inherent risk of discrimination in the operation of the network

Unbundling creates incentives for adequate investments in the networks

Removes the risk for cross-subsidization

Energy Packages

- **First energy package** - management unbundling and accounting separation of transmission and distribution activities from market activities
- **Second energy package** – establishment of a separate legal entity and functional unbundling - i.e. independence/effective decision-making rights
- **Third energy package** – Ownership unbundling for TSOs, legal and functional unbundling, as well as compliance officer requirement for DSOs
 - Directive 2009/73/EC
 - MC Dec. 2011/02/MC-EnC

Unbundling Models for TSOs

**Ownership
unbundling (OU)**

**Independent
system operator
(ISO)**

**Independent
transmission
operator (ITO)**

* The ISO and ITO models can only be chosen for a specific TSO if on 6 October 2011 (3 September 2009 for the EU), the transmission system belonged to a vertically integrated undertaking.

Ownership Unbundling

- TSO is the owner of the network
 - Rights to the network equivalent to those of an owner allowed
- Minority shareholding by the VIU as a financial investor – dividends allowed
- No control over the TSO
- No appointment of board members
- In case of state ownership under different entities, without a single controlling entity (i.e. no mutual subordination links)
- The most popular model for a TSO

- VIU establishes a legally and functionally unbundled company and transfers the network ownership
- ISO is an independent company, separated according to the requirements of ownership unbundling and is in charge of network operation, based on a lease agreement
- ISO shall be responsible for:
 - operating, maintaining and developing the transmission system
 - planning, construction and commissioning of the new infrastructure
 - ensuring the long-term ability of the system to meet reasonable demand through investment planning
 - granting and managing third-party access, including the collection of access charges
- Complex investment mechanism and high regulatory control
- Least popular model for unbundling in the EU

Regulatory control

- Monitoring the transmission system owner's and the ISO's compliance with their obligations.
- Monitoring the relations and communications between the ISO and the transmission system owner, including the approval of any contracts between the ISO and the transmission system owner.
- Acting as a dispute settlement authority between the ISO and the transmission system owner.
- Approving the investment planning and the multi-annual network development plan to be presented annually by the ISO.
- Exercising the powers to carry out inspections, including unannounced inspections, at the premises of the transmission system owner and the independent system operator.

- ITO may remain part of a vertically integrated undertaking.
- ITO has to ensure its independence in its decision making and its activities through its organizational structure which needs to be autonomous from the VIU.
- ITO must be equipped with all financial, technical, physical and human resources necessary to fulfil its obligations and to carry out the activity of gas transmission.
- Personnel of the ITO cannot exercise any functions within the VIU.
- ITO shall have an independent Supervisory Body in charge of taking the decisions on approval of the annual and longer-term financial plans, the level of indebtedness of the ITO and the amount of dividends distributed to shareholders.
- A compliance programme with measures to ensure that discriminatory conduct is excluded shall be established by the ITO and approved by the regulatory authority. A compliance officer is to be appointed by the Supervisory Body, subject to approval by the regulatory authority. The compliance officer is in charge of ensuring observance of the compliance programme.
- High administrative burden: regulator, special supervisory body, compliance officer.

Duties and powers of NRAs in case of ITO

- Monitor communications between the ITO and other parts of the in order to ensure compliance of the ITO with its obligations
- Act as a dispute settlement authority between the ITO and other parts of the VIU in respect of complaints
- Monitor and approve all commercial and financial agreements including loans between the ITO and other parts of the VIU so that they comply with market conditions
- Carry out inspections, including unannounced ones, on the premises of the ITO and other parts of the vertically integrated undertaking

Enforcement of the Unbundling Requirement

- Certification procedure
 - Conducted by the NRA
 - Up to 10 months
 - Utmost account of the opinion issued by the Energy Community Secretariat
- Continued monitoring
- Penalties up to 10% of the annual turnover either of the vertically integrated undertaking
- Recertification

Case study: Georgia

Quasi-ownership unbundling for the electricity TSO

ISO model for the gas TSO

Two attempts of certification

- No lease agreement
- No separation of control at the State level

Unbundling of DSOs, TNOs and SSOs

- Accounting unbundling – requirement to keep separate accounts
- Legal unbundling – free to choose the legal form
- Functional unbundling – effective decision-making rights and necessary resources (human, technical, physical and financial)
- Management separation - independence and effective decision making right
- Separate identity in communication and branding
- Supervisory rights of VIU limited to annual investment plan and overall level of indebtedness but no involvement in day-to-day decision-making
- Possibility for a combined operator (TSO unbundling prevails)
- De minimis threshold for exemption from unbundling: DSOs with less than 100.000 connected customers
- Applies to storage facilities that are technically and/or economically necessary for providing efficient access to the system for the supply of customers

Third Party Access

Unrestricted TPA to systems shall be ensured:

- Based on published terms and conditions (Network Codes)
- Applied objectively and without discrimination
- Charged on the basis of regulated and published tariffs (NRA)
- May be refused if the operator:
 - lacks the necessary capacity
 - where the access to the system would prevent from carrying out the public service obligations
 - on the basis of serious economic and financial difficulties with take-or-pay contracts
- Any refusal shall be technically and economically justified

Exemptions for New Gas Infrastructure

Major new gas infrastructure may be exempted from TPA under the following conditions:

- The investment must enhance competition in gas supply and enhance security of supply;
- The level of risk attached to the investment must be such that the investment would not take place unless an exemption was granted;
- The infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
- Charges must be levied on users of that infrastructure;
- And the exemption must not be detrimental to competition or the effective functioning of the internal market in natural gas, or the efficient functioning of the regulated system to which the infrastructure is connected.

Access to UGS

- Access to gas storage facilities allows gas suppliers to manage supply-demand fluctuations effectively, enhance their supply security and optimize their portfolio
- For the organisation of access to storage facilities when technically and/or economically necessary for providing efficient access to the system for the supply of customers, Contracting Parties may choose:
 - **Negotiated access**
 - Commercial conditions shall be consulted with system users and published
 - Good-faith negotiations are obligatory
 - **Regulated access**
 - Methodology and/or tariffs approved by the regulatory authority
 - System users shall be consulted when developing tariffs/methodologies

Price regulation

- System tariffs shall allow the network operators to recover their costs and earn a reasonable return on their investments.
- Tariffs are crucial for maintaining and expanding the gas infrastructure, ensuring its safety and reliability, and providing fair access to all market participants.
- **Cost-plus model** allows the network operators to recover their costs and earn a reasonable return.
- **Incentive-based model** incentivizes the network operators to improve their efficiency and reduce costs.
- NRA ensures that the tariffs are:
 - Transparent
 - non-discriminatory
 - reflective of the actual costs.

The background of the slide is a satellite-style image of the Earth at night, showing city lights. Overlaid on this is a complex network of glowing blue lines and nodes, representing a global energy or communication network. The lines connect various points across the globe, with some nodes appearing as bright blue circles.

*Thank you
for your attention!*

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