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NW GRI

**MEMORANDUM OF UNDERSTANDING
CO-OPERATION AGREEMENT BETWEEN THE ENERGY
REGULATORS OF THE NORTH WEST REGION OF THE
GAS REGIONAL INITIATIVES (NW GRI)**

23rd of October 2007

NW GRI

PREAMBLE

In signing this Memorandum of Understanding (MOU) the parties undertake to work together to progress the development of the regional internal market for gas as provided for in Directive 2003/55/EC and Regulation 1775/2005. This MOU will assist existing co-operation between regulators in the region and facilitate new ways of co-operation. Parties undertake to work together to eliminate practical and technical barriers to trade within the region and they will endeavour to establish compatibility of market rules across the region. This MOU provides tools to solve problems arising from regulatory gaps, until these problems are resolved by other measures for example from the third package of the Commission.

MEMORANDUM OF UNDERSTANDING

This MOU is signed on the 23 of October, 2007 in The Hague

Between

Each of the NRAs of all the countries in the NW GRI, namely:

Belgium

Denmark

France

Germany

Great Britain

Ireland

The Netherlands

Northern Ireland

Sweden

These Parties all intend to act as follows

NW GRI

PART 1 DEFINITIONS, OBJECTIVES AND SCOPE

1. Definitions

‘MOU’ means all provisions of this Memorandum of Understanding including the schedules, as from time to time amended by agreement between the Parties in accordance with Article 9 of the MOU

‘The Directive’ means the Directive 2003/55/EC of the European Parliament and of the Council of 26th June 2003

The technical definitions of The Directive apply on this MOU

‘Gas Infrastructure’ means any gas pipeline, Interconnector or gas storage or LNG facility

‘Interconnector’ means a transmission line which crosses or spans a border between Member States for the sole purpose of connection the national transmission systems of these member States

‘Party’ means the {NRA} or {any NRAs in NW GRI} and “Parties” shall be construed accordingly

‘Region’ means the North West Region of the Gas Regional Initiatives which comprise the following jurisdictions: Belgium, Denmark, France, Germany, Great Britain, Ireland, The Netherlands, Northern Ireland, Poland and Sweden

‘The Regulation’ means Regulation (EC) No 1775/2005 of the European Parliament and of the Council of 28 September 2005

“Respondent Party” means the Party to whom a request has been submitted under the MOU

“Requesting Party” means the Party submitting a request under the MOU

“RCC” means Regional Coordination Committee and comprises of the heads of the national authorities or their representatives and a representative of the commission

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2. Objectives of MOU –

WHEREAS the objectives of this MOU, in particular having regard to the duty of cooperation referred to in Article 25 of the Directive and in Article 10 of The Regulation and the Guidelines annexed thereto, are -

- (1) to progress the development of the single market in accordance with the Directive and Regulation
- (2) to facilitate co-operation between the Parties in the performance of their regulatory functions in so far as they relate to the technical and commercial operation of the gas networks and gas markets in the Region
- (3) to avoid duplication of activities by the Parties, being activities involving the regulation of gas networks and gas markets in the Region
- (4) to ensure, as far as practicable, compatibility and where possible harmonisation, between decisions made or other steps taken by the Parties in so far as any part of those decisions or steps consists of, or relates to a determination of any issue of regulation relating to the gas networks and gas markets in the Region
- (5) to ensure the proper functioning of the internal gas market as a whole and to avoid undue discrimination between users, shippers and infrastructure operators in the region taking into account the specificities of national and regional markets.
- (6) to provide solutions to cross border issues through working in a co-operative manner and where agreement is not possible to seek consensus by mediation by the RCC

3. Scope of MOU

- (1) This MOU applies to the regulation of major infrastructure and changes thereto, which may have significant influence on the trading and / or transportation of gas in the adjacent markets.
- (2) Parties will endeavour to provide timely information to other relevant Parties and if necessary consult them on proposed regulation and decisions that could significantly impact on adjacent markets
- (3) Parties may contact each other on other issues as appropriate or desirable

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PART 2 CO-ORDINATION, INFORMATION AND HARMONISATION

4. Regulatory Co-ordination

- (1) The Parties shall consider whether there is an impact on the gas market in other countries in the Region when considering the arrangements for any interconnector or reviewing or making changes to business rules;
- (2) Where a deciding Party believes that the arrangements or business rules might result in incompatible regulation for cross border flows then that Party will:
 - a. Inform all relevant Parties at the earliest opportunity;
 - b. Where appropriate consult with other directly affected Parties in order to minimise obstacles to cross border flows
- (3) Where a Party believes that a deciding party may change or has made changes which adversely impacts or may adversely impact on their market they may inform the deciding party and the deciding party will use the rules in articles 6 and 7 of this MOU.
- (4) The Parties acknowledge that responsibility for the regulation of the gas infrastructure (e.g. the technical operation and thereof) are the responsibility of the Member State within whose jurisdiction that part of the infrastructure lies
- (5) The deciding Party in the event of a dispute relating to access to the infrastructure, within the meaning of Article 25(10) of the Directive shall be the Party regulating the affected network operator's jurisdiction

5. Regulation of the Gas Market

- (1) The Parties acknowledge that responsibility for the regulation of the gas market is the responsibility of the Party within whose jurisdiction that part of the market lies
- (2) Parties should consider the impact of current business rules and of any proposed changes to these rules on other markets in the Region
- (3) The Parties shall seek to apply compatible market and business rules where necessary to ensure compatibility and facilitate cross-border flows of gas and trade
- (4) The Parties shall seek to harmonise market and business rules where practicable and necessary to ensure compatibility and facilitate cross-border flows of gas and trade

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- (5) Where market or business rules are agreed with ERGEG or GRI the Parties shall so far as possible given any applicable national laws seek to implement these rules and to do so in a manner consistent with the other Parties

6. Sharing of Information

- (1) Each Party shall provide a contact point, including phone and email details. These contact points shall be responsible for all communication between Parties in providing and receiving information.
- (2) Where the potential exists for a significant impact on another Party or Parties arising out of a decision then the Party taking the decision should make best endeavors to inform any affected Parties
- (3) Each Party may, upon written request, provide to the other Party any information in its possession of a kind specified in the request subject to restrictions or requirements arising out of national laws such as those relating to confidentiality, data protection or freedom of information requests. The request shall refer to this MOU and state that the information is required by the Requesting Party for the purpose of the performance of its functions, and shall describe the particular functions for which the information is required.
- (4) Requests for information must be made in writing (for the avoidance of doubt, "writing" includes electronic mail). In cases of urgency, requests for information may in the first instance be made orally, and their responses given orally, provided that they are subsequently confirmed in writing.
- (5) In the case of information supplied pursuant to this MOU, the provisions of any enactment concerning the disclosure of information by the Respondent Party shall also apply to the Requesting Party. If requested by one Party, the receiving Party shall promise in writing to safeguard confidentiality and shall take appropriate measures to ensure the confidentiality of all such information.
- (6) The Requesting Party may ask that the request itself be considered of a confidential nature.
- (7) Information should be released by Parties to the Requesting Party wherever possible except in specific circumstances (for example where it could prejudice ongoing investigations or is contrary to national legislation). In such circumstances the relevant Party should explain the reasons for its decision to the Requesting Party.

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- (8) The Parties hereby commit themselves to use the information solely for the purposes described in the Request.
- (9) Should the Requesting Party wish to use the shared information for any purpose other than the purposes expressed in the Request it must first obtain the written approval of the Respondent Party.
- (10) To achieve a maximum of coordination and a common understanding on issues of considerable regulatory interest the Parties commit to a free exchange of experiences. For this purpose the Parties will make available their finalized formal decisions on the following issues to the other Parties:
 - capacity allocation mechanisms
 - long-term capacity contracts
 - measures to prevent capacity hoarding
 - Imposition of obligation to network extension
- (11) Where formal decisions regarding cross border issues are made they should be shared in full text with an English summary
- (12) All parties will strive to publish grid codes and market rules in English

7. Consultation

- (1) Where the potential exists for a very significant impact on another Party or Parties arising out of a decision then the Party taking the decision shall allow adequate time for consultation if significant contributions can be expected. Parties can abstain from consulting other Parties if the consultation would lead to an infringement of statutory decision periods.
- (2) Where decisions are required in one or more jurisdictions, each Party shall endeavour to conduct enquiries and arrive at decisions contemporaneously

8. Avoidance of Inconsistency of Action

- (1) Where regulatory action could be taken by one or more Parties in respect of the same subject matter, the Parties shall liaise with each other and decide who is best placed to act (or if joint action is necessary).
- (2) Where one Party is satisfied that the other Party is performing functions in relation to any particular matter, the first Party may forbear to perform any of its functions in relation to that same matter and shall inform the other Party accordingly.

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- (3) Either Party may request the other to exercise forbearance in any particular case. The other Party may accede to such request where it is satisfied that the requesting Party is performing functions in relation to that matter.
- (4) Where one Party has agreed to forbear to perform its functions in any particular matter, it may so inform any relevant third parties as it sees fit.

PART 3 OPERATION OF MOU

9. Term of MOU and Review

- (1) This MOU commences on the date of this MOU and will continue until the RCC decides that it wishes to terminate the MOU. Any Party can terminate their membership to the MOU by written notice to the RCC.
- (2) The Parties will review this MOU at the request of any Party.

10. Dispute Resolution

In the event of a regional cross-border dispute that arises in relation to or from the application of this MOU the disputing Parties may seek consultation and mediation of the RCC. Such advice may, upon mutual agreement, be published by the RCC.

11. Guidelines

Should questions arise regarding the application of this MOU or the functioning of the internal regional market where legislation or existing guidelines prove insufficient, the RCC may consider the compilation of provisional guidelines. These guidelines will, in principle, be communicated to the relevant organisations at the European level.

12. Variation

This MOU may be varied at any time by consent of all Parties. Any variation agreed shall be in writing, shall be signed by all Parties or by their authorised representatives and shall come into force on a date agreed by the Parties.

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13. Severability

Should, at a future date, the whole or any part of any provision of this MOU prove to be illegal, the other provisions of the MOU and the remainder of the provision in question shall remain.

14. Subsidiarity

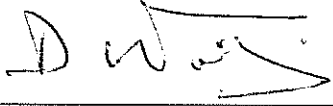
This MOU is without prejudice to the statutory powers of the Parties and to national legislation.

15. Legal Nature of this MOU


This MOU contains the Parties' intent to facilitate their co-operation. However, no legal rights and obligations can be derived from this MOU.

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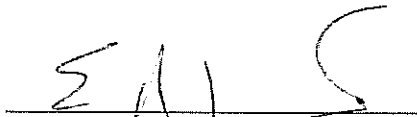
IN WITNESS WHEREOF, this MOU has been executed in the manner hereinafter appearing on the date and year first herein written.



Dominique Woitrin
Commission de Régulation
de l'Electricité et du Gaz



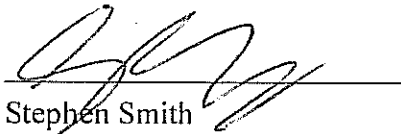
Finn Delhbaeck
Danish Competition Authority



Eric Dyevre
Commission de Régulation de l'énergie



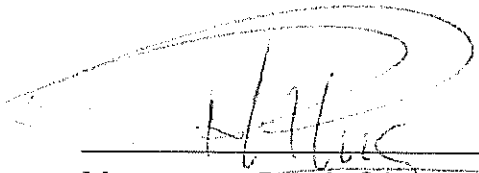
Johannes Kindler
Bundesnetzagentur



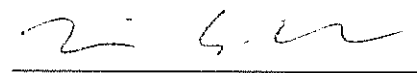
Stephen Smith
Office of Gas and Electricity Markets



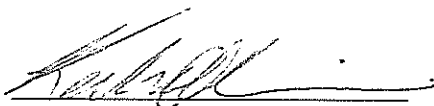
Hakan Heden
Energy Markets Inspectorate



Management Board of the
Netherlands Competition Authority,
on behalf of:
Drs. P.J. Plug
Director Office for Energy Regulation



Iain Osborne
Northern Ireland Authority for Utility
regulation



Commission for Energy regulation
On behalf of:
Ms. Keelin O'Brian

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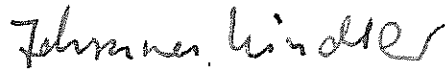
Dominique Woitrin
Commission de Régulation
de l'Electricité et du Gaz



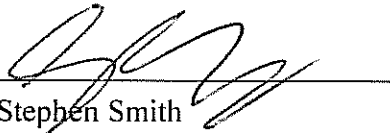
Finn Delhbaeck
Danish Competition Authority



Eric Dyevre
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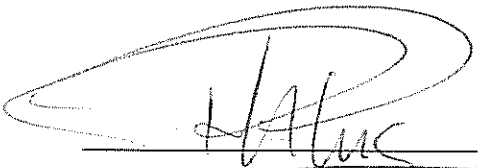
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Bundesnetzagentur



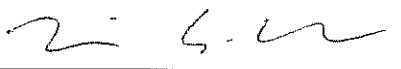
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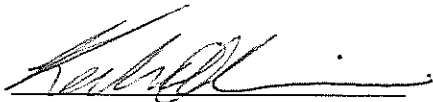
Hakan Heden
Energy Markets Inspectorate



Management Board of the
Netherlands Competition Authority,
on behalf of:
Drs. P.J. Plug
Director Office for Energy Regulation



Iain Osborne
Northern Ireland Authority for Utility
regulation



Commission for Energy regulation
On behalf of:
Ms. Keelin O'Brian