

# SINGLE EU ENERGY MARKET

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Energy policy of the EU

# First initiatives for IEM

- Since 1988, the Commission focused on:
  - Harmonization of indirect taxation
  - Price and investment transparency
  - Competition for public procurement
  - TPA
  - Integration of electricity and gas grids
  - Application of competition legislation to the upstream part of oil and gas exploration and production.
- + set of proposals demanding the institutional energy policy:
  - Plans for an EU policy of supply security by the year 2005
  - A European Energy Charter
  - The official merging of energy and environmental policy from 1990
  - Amendment proposals for the inclusion of energy in the treaty text.

Tento projekt je spolufinancován Evropským sociálním fondem a státním rozpočtem České republiky.



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# Increased role of the EC in the energy policy

- ❑ TPA implied that EC will supervise and define the conditions and tariffs for such access
- ❑ EC controls the financing of energy projects – TEN - E
- ❑ Application of the rules on competition by countering the existence monopoly companies
- ❑ More power regarding the interventions in the subsidizing of coal production
- ❑ EC is perceived by lobbyists as one of the main energy policy-maker in the EU

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# Second liberalization package

- Unsatisfactory pace as well as targets, new legislation introduced in 2003.

□ *„European national gas markets are characterized by high prices and tariff differentials, a high degree of market concentration, insufficient unbundling, a lack of market based balancing regimes, and ex ante regulation to name just a few. The prices of gas and electricity are especially of concern. In some European countries, natural gas increases its share in electricity generation. During the 1990's the European industry was paying 40% more for its electricity than its American competitors“.*

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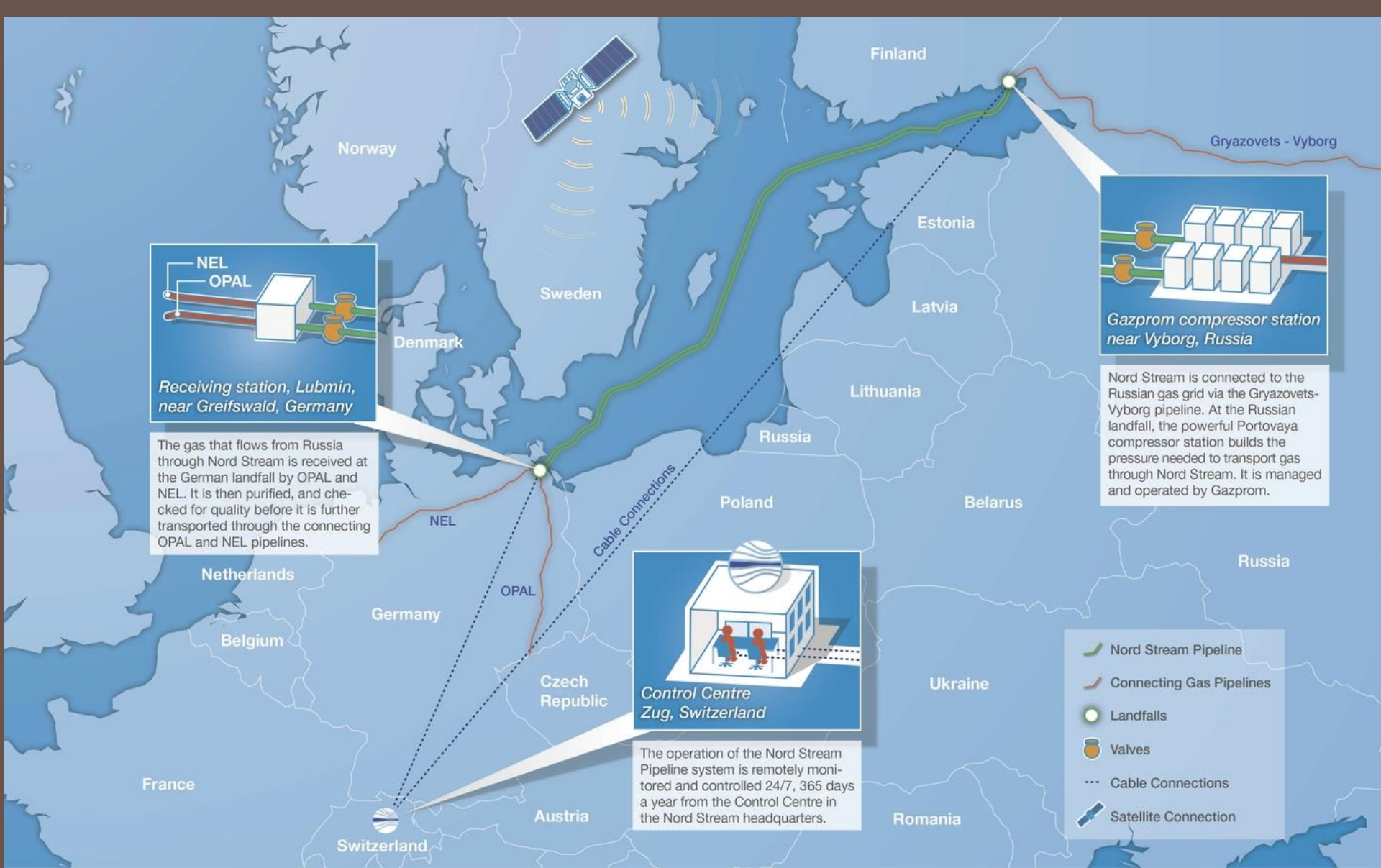
# Second liberalization package

- DIRECTIVE 2003/54/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC
- DIRECTIVE 2003/55/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC

	Unbundling of networks	Access to networks	Market opening	National regulation
First legislative package	Separate management and accounts	Negotiated or regulated terms of access	Power: 35% open by 2003 Gas: 33% open by 2018	Mechanism for regulation
Second legislative package	Separate subsidiary	Regulated terms of access	Power and gas markets 100% open by July 2007	Specific regulator for energy

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# Unbundling in the Second package

- **Legal Unbundling:** the transmission and distribution activities have to be done by a separate “network” company; the network company must not necessarily own the network assets but must have “effective decision making rights” in line with the requirements of functional unbundling (no change of ownership!)
- **Functional Unbundling:** where the network operator is part of a vertically integrated undertaking, it shall be independent in terms of its organisation (management separation) and decision making rights from the other activities not related to that network
- **Accounting Unbundling:** relevance for DSOs which are not legally unbundled (given the new requirement of legal unbundling); no derogation is possible from accounting unbundling for smaller DSOs.

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# The following steps of the European Commission

- EC sector inquiry (2005 - 2007) highlighted some serious shortages on the electricity and gas market.
  - The persistence of great market concentration (Vertical foreclosure, just a few interconnection)
  - Too little integration between MS markets
  - Absence of transparent market information
  - Unsatisfactory level of unbundling
  - Customers are tied to the suppliers with long-term downstream contracts
- **Solution** = market transparency and caps on incumbents' market shares, closing the gaps between the **responsibilities and competences** of national regulators, structural (**ownership**) unbundling.

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# Non-functioning market: Incumbents' reactions

- ❑ **Failed expectations from the SEM:**
  - ❑ High market concentration and limited cross-the-border trade persist, slow progress towards the competitive and liquid market
  - ❑ Some incumbents lost part of the market, but mainly because of the pressure from the governments
- ❑ **Vertical foreclosure** - the process where incumbent wittingly or unwittingly foreclose, or close in advance, the availability of crucial inputs or assets to potential rivals.
  - ❑ Long-term upstream supply contracts, long-term capacity contracts, long-term downstream distribution contracts.
  - ❑ 2007 anti-trust investigation of ENI a RWE, 2008 GdF. RWE a E.ON willing to sell their networks
- ❑ **Market segmentation**
  - ❑ 2002 request of 10% producing capacity in interconnectors.

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# European Commission vs. companies

- ❑ Unexpected inspections of 25 companies in Austria, Belgium, France, Germany, Hungary, Italy.
- ❑ Just in 2006 EC court proceedings against 17 states for inadequate transposition of the 2003 directives.
- ❑ 2007 - Investigation about Italy's Eni and Germany's RWE for shutting the competitors out of their markets by underinvesting into the transmission networks, capacity hoarding, charging high prices for access to networks etc.
- ❑ 2008 RWE sell its entire German gas grid, in 2008, Eon did the same with electricity grids.
  - <http://www.youtube.com/watch?v=w5y5QuT7ye8>

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# Non-functioning market: Governments' reactions

- Championing national companies – preventing foreign companies to buy domestic ones.
  - ▣ Hungary (Moll) vs OMV, Great Britain (Centrica) vs Gazprom....
- Retail market
  - ▣ Regulated vs. free pricing in case of energy
- EK objected in case of **Slovakia**, where PM Fico threatened to renationalize Slovenske Elektrarne, if they did not stop raising the prices.
- In 2006, EK went after **Spain, France, Estonia and Latvia** for regulating tariffs.
- Then EK went after **Italy and Ireland** for granting on discriminatory basis the right to an incumbent to supply power at regulated price
- And again it went after **Germany, Czech Republic, Poland, Slovakia, Lithuania and Italy** for failing to provide sufficient information on regulator tariffs. The same situation repeated in 2007, in case of Commission against **Spain and France**.
- Regulating the regulators

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# Ownership unbundling

- „This would be the greatest expropriation since the Bolshevik revolution“ – Bruno Wllnofer, Chief executive of Tiwag, an Austrian utility.

Hours with congestion as a percentage of all hours	
Border	2005
SK to HU	100
FR to CH	100
DE to DK	100
NL to BE	100
FR to UK	94
DE to NL (x)	90,1
FR to ES	81,1
CZ to DE	68
NL to DE (x)	63,9
BE to NL	63,1
DE to FR (x)	41,3
CZ to AT	37
DE to CZ (x)	35,7
UK to FR	35

UK to FR	35
FR to DE	33,3
ES to FR (x)	32,8
PL to CZ	16,1
PR to ES	11,7
FR to BE	11
CZ to PL	10,1
SK to CZ	6,6
CZ to SK	1,1
DE to CH (x)	1
FR to IT	0,8
AT to CZ	0,3
CH to FR	0
IT to FR	0
BE to FR	0
DE to AT	0

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# Third liberalization package

□ <http://www.youtube.com/watch?v=jF3Teoq4xmc>

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Third liberalisation package	Ownership unbundling, ISO, ITO.	Regulated terms of access	Already achieved	Ungraded and harmonized powers for national energy regulators

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# Third liberalization package - unbundling

- Separating networks from generation, production and supply interests
- **Ownership unbundling** - OU means separating the ownership or the operation of gas and power networks from other parts of the energy business.
- **ISO** - companies involved in energy production and supply would be allowed to retain their network assets, but would lose control over how they are managed. Crucially, commercial and investment decisions would be left to an independent company (ISO), to be designated by national governments with the Commission's prior approval, to ensure a sufficient level of independence.

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# Third liberalization package - unbundling

- **ITO model** allows integrated companies to retain ownership of their gas and electricity grids. However, they would have to give up daily management of the grids to an independent transmission operator.
- Crucially, companies can retain commercial and investment decisions, but will have to set up a framework for ensuring the independent operation of the transmission network by:
  - Setting up a supervisory body made up of company representatives, third-party shareholders and representatives of the transmission system;
  - agreeing a compliance programme setting out measures that prevent the ITO from discriminating against suppliers using the grid;
  - appointing a compliance officer with powers to ensure non-discrimination, and;
  - introducing a mandatory cooling-off period for management staff who move between the supply and generation company and the transmission operator.

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# Third liberalization package

- Promotion of an internal energy market and the removal of restrictions to trade between MS
- Agency for Cooperation of Energy Regulators (ACER) + European Networks for Transmission System Operators
- The protection of the consumers have to be strengthened

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# Results of 3rd package

- Adopted in 2009 with 2 years to be implemented to the law of MS – not enough data
- It seemed that prices are not going down (in UK the prices have risen by 140% since 2004), but plenty of other reasons – taxation, costs of distribution, costs of energy resources.
- But – at the end of 2011 still 18-20 had not adopted the Package.

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# Gazprom cause – antitrust proceeding

- Being accused of abusing its dominant position in CEE – fine up to 11 bn.euros (10 % of its annual turnover).
- The investigation covered Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary and Bulgaria.
- Gazprom allegedly hindering competition by:
  - First, Gazprom may have divided European gas markets by hindering the free flow of gas across member states.
  - Second, it may have prevented the diversification of gas supply.
  - Thirdly, it may have imposed unfair prices on its customers by linking the price of gas to oil prices.

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# Discussion

- ❑ Vertically integrated model, nevertheless, still considered as a viable model of market management.
- ❑ Security of supply

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