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**REPORT
&
RESOLUTION**

ON

LIBERALISATION OF ENERGY MARKETS IN THE EEA

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I INTRODUCTION

1. Energy is a very important element of economic activity and social welfare. The creation of a single energy market based on open and competitive markets represents a great challenge for the Union as it is envisaged to have a direct impact on European industry and consumers' welfare. The EU energy policy is directed towards the long-term energy objectives set out in 1995 in the "*White Paper on Energy Policy for the European Union*".¹ According to the White Paper, energy policy must form part of the general aims of the Community's economic policy based on market integration, deregulation and public intervention.

2. The introduction of competition in the electricity and gas sectors is a means to enhance the competitiveness of the European industry competing in the world market. Some critical factors for the international competitiveness of European business concern the cost of energy. Compared to USA or Australia, European industry in some cases pays 30% more for electricity and gas due to isolation of national markets, lack of intra-Community trade for these products and lack of harmonised taxes. In addition, the EU's external dependence for energy is constantly increasing, and if the present situation is not tackled, this external dependence will have economic, social, ecological and physical risks for the EU. This weakness has for instance been highlighted when oil prices were strongly increased. The survival and growth of certain industries in the EU depends on their ability to cut production costs, including energy costs.

3. The implication of the creation of a single market is also to strengthen the security of supply across the EU by permitting diversification and flexibility of supplies as a result of the closer integration of internal energy markets. It will provide more outlets and better interconnections in the EU. The internal energy market is furthermore likely to have also positive effects on the environment. This can imply less waste of natural resources as less reserve capacity is needed in each country, and the single market can offer the possibility for energy consumers to choose cleaner energy sources. The problem is however that gas is per ton more expensive than oil and coal and this has led to phasing out of gas-fired condensing power plants, in some countries even CHP plants.

4. The liberalisation of electricity and gas sectors is a part of the European Union's vast policy of extending the rules of the single market to the network industries. Many of these activities serve a "general interest", the good of the society as such or of the citizens. They have to be carried out, even if private enterprise has no interest in running them. They are, therefore, the general responsibility of public authorities, which ensure that they are properly performed. They both give their operators a mission to fulfil and offer special rights to carry this mission out.

¹ COM (95) 682

M/20/P/008

5. The Treaty of the European Community (Article 86) especially classifies these activities as "services of general interest". They are, in principle, subject to the common rules on the free movement of goods and services and the prohibition of anti-competitive practices. At the same time, they can be exempt from these rules if this is necessary for the performance of their mission. Therefore, EC policy has to keep a balance between the opening of these sectors to market rules by removing national obstacles, including some of the "public service" exclusive or special rights, and the need to preserve these public services.

6. The energy networks essentially include electricity and gas. Together with transport, telecommunication and postal services, they have been part of a general policy of liberalisation of public service activities that started in the middle of the 1980s. This policy has already led to a substantial amount of legislation and further steps are proposed. Since this legislation is essentially composed of directives, it had to be transposed into the Member States, a process that involved some difficulties.

7. The EU internal market is extended to the EEA EFTA countries through the European Economic Area Agreement (EEA). EU legislation is incorporated through EEA Joint Committee Decisions, and transposed into national legislation following standard procedures. The energy sector follows such standard procedures, as the free movement of goods, including energy, is part of the EEA Agreement.

II THE EUROPEAN UNION LEGISLATION

A. Legislation in force

8. Within the European Union, efforts to open up the electricity and gas markets started at the end of the 1980s, the move being launched by a Commission announcement in 1989. The legislative action stretched however over a long period. It started with texts of limited scope before going to the heart of the problem: the special rights which undertakings entrusted with producing, transporting and distributing electricity and gas commonly enjoyed.

a. The first step was, modestly, to impose **price transparency** for the benefit of large consumers. Council Directive 90/377/EEC of 29 June 1990 obliged electricity and gas suppliers to communicate to the Commission the prices they charged to industrial end-users.

b. A more ambitious step was the "**transit**" directives of 1990 (90/547/EEC of 29 October 1990 for electricity and 91/296/EEC of 31 May 1991 for gas). These oblige undertakings responsible for transportation networks to put them at the disposal of other undertakings that want to transport electricity and gas from one country to another within the Community (at least one Community border had to be crossed). They thus challenge an exclusive right still existing in a number of

M/20/P/008

countries: the monopoly of operators of transportation networks. However, the challenge is limited by the restriction of the right of access to other electricity and gas operators: customers are excluded. Distribution monopolies are not affected and, in effect, the legislation does no more than make compulsory facilities that have been practised for a long time on a voluntary basis.

c. Real opening up of the market started with the internal energy market directives: respectively 96/92/EC of 19 December 1996 for electricity and 98/30/EC of 22 June 1998 for gas. Their core principle is the access of operators, without discrimination, to the different activities of the sector: production, transport and distribution. This means the abolition of exclusive rights and the introduction of third party access to the system, at least for the benefit of some end-users. These "eligible" consumers are defined by Member States, but for gas the directive contains minimal demands that are growing in the future:

- first, there are "automatically" eligible consumers: gas-fired power generators and in general consumers using more than 25 million cubic metres per year, this limit being lowered to 15 million in 2003 and 5 million in 2008;
- secondly, the eligibility system must result in an opening of the market of at least 20 % of the total annual consumption, increased to 28 % in 2003 and 33 % in 2008.

However public authorities of Member States retain the right to impose to operators' public service obligations as regards security, regularity, quality and price of supplies. In particular, tariffs may be regulated to ensure equal treatment of the consumers in a given area.

B. Transposition in Member States

9. The directives on transparency and transit were transposed satisfactorily in all Member States. However, the transposition of internal energy market directives did not take place without problems. For the electricity directives, the problems arise in Belgium and France. Belgian transposition was not completed (measures of implementation are still awaited) and the Commission decided on an infringement procedure which is now at the stage of the Court of Justice. In addition, French transposition was considered both defective and incomplete and this too led to an infringement procedure.

10. The gas directive had to be transposed at the latest on 10 August 2000, but some Member States did not complete this transposition, implying infringement procedures. The procedures against Luxembourg and Portugal for non-communication were classified during 2001. In addition, Germany transposed only partly the directive, and is for this reason subject of an infringement procedure. A reasoned opinion was notified to the

M/20/P/008

German authorities on 13 June 2001. Furthermore, since France still did not transpose the directive, the procedure is now at the stage of the Court of Justice.

11. The Commission Directorate-Generals continue analysing the conformity of the national measures of implementation of both directives for all Member States. However, the Commission Report on application of directives in December 2001 pointed out several key obstacles to healthy competition in the electricity and gas markets and showed that the level of openness is low. For example, in Germany, Austria, Portugal and to a lesser extent, Spain, electricity network charges are fairly high and should be revised downwards. In addition, gas transmission charges in Austria, Germany, France, the Netherlands and Belgium have a structure that fails to reflect the costs. In most Member States a handful of electricity producers figure large on the wholesale market, which creates excessively high imbalanced costs. In many Member States, a single operator is controlling 50% of the market. The 10 largest companies control over 50% of the European market. This current asymmetric deregulation of markets within the EU helps make some countries more competitive than others.

III EC LEGISLATION PROPOSED FOR LIBERALISATION

12. The Lisbon European Council of 23 and 24 March 2000 called for the energy markets to be opened up more quickly, and as a follow-up, on 13 March 2001, the Commission adopted a set of proposals to open the gas and electricity markets up fully by 2005. They included a communication on the completion of the internal market, a draft directive amending the Directives introducing common rules for the internal market in electricity and gas, and a draft regulation on conditions for access to the network for cross-border trade in electricity. This set of proposals was presented to the Stockholm European Council on 23 and 24 March 2001.

A. Proposal for a new directive on common rules for the internal market in electricity and natural gas

13. The objective is to amend the directives concerning common rules for the internal market in Electricity and Gas (Directives 96/92/EC and 98/30/EC) in order to speed up the completion of the internal energy market.

The proposals amending the two existing directives are divided into two major groups:

- **Qualitative proposals:** The qualitative proposals in the Commission's proposal include provisions that are necessary to facilitate and speed up an effective market opening: a) Legal unbundling of Transmission System Operators from competitive activities; b) legal unbundling of Distribution System Operators from competitive activities; c) regulated third-party access to networks, based on published tariffs; d) establishment of a regulatory authority to approve and/or supervise network tariffs, and; e) deletion of both the single buyer system and the

M/20/P/008

tendering procedure for new generation capacity. The qualitative proposals are at least as important as the quantitative ones. An effective market opening can only be secured by combining a balanced set of both criteria.

- **Quantitative proposals:** guaranteeing freedom of choice of supplier.
It is proposed that Member States give all electricity consumers in the non-residential sector (i.e. all industrial and commercial entities) a free choice of supplier by 1 January 2003 and that all consumers should have this option by 1 January 2005 at the latest. This means that the market will be 100% open by the beginning of January 2005 at the latest.
In view of the fact that the Gas Directive was adopted later than the Electricity Directive, the date for opening of the non-residential market is delayed until 1 January 2004. However, the deadline for the total opening of the market remains the same as for electricity, i.e. by January 2005 at the latest.

14. The Commission proposes in addition:

- a. the deletion of some provisions of the existing directives that have not really been implemented by Member States and would raise difficulties for candidate countries:
 - the tendering procedure for electricity generation
 - notification to the Commission of any refusal to authorise the construction of new generation capacity
- b. the repeal of directives on transit (Council Directives 90/547/EEC and 91/296/EEC) in order to avoid disparities between systems, publication requirements or dispute settlement procedures in relation to access to networks. A single published and regulated tariff structure should be the minimum norm for the transmission or distribution tariffs in the electricity and gas markets.

15. Another important objective with the Commission's proposal is to make the mission of public service clearer: provision of high-quality electricity, security of supply, protection of vulnerable consumers, protection of environment.

B. Proposal for a regulation on conditions of access to the network for cross-border exchanges in electricity

16. The objective is to facilitate intra-Community exchanges by creating transparent and non-discriminatory rules for access to the interconnection capacity. The proposal complements the directive on common rules for the internal market in electricity.

17. At present, the Member States apply different tariff systems, and there are no transparent and non-discriminatory rules on allocating the limited interconnection capacity. This situation is liable to cause discrimination between operators and hence to

M/20/P/008

form an obstacle to competition within the market. It is agreed that cross-border trading in electricity will lead to more competition between suppliers if these suppliers find transparent, legally binding and clearly defined conditions of competition in their target areas. The success of the regulation depends thus on the success of the reform of the directive.

18. In its first reading, on 13 March 2002, the European parliament voted on the proposals.

European Council of Barcelona

19. It has to be noted that the European Council of Barcelona (15 and 16 March 2002) has adopted a less ambitious position than the Commission's proposals on the opening of the market. The European Council agreed upon "*freedom of choice of supplier for all European non-household consumers as of 2004 for electricity and for gas. This will amount to at least 60% of the total market.*"² The discussion on the liberalisation of the energy market for households was unfortunately postponed. In addition, the European Council invited the Commission to propose a directive on public services in general, covering all network sectors.

C. Comments from EEA EFTA States³

20. The EEA EFTA States have taken note of the main amendments made in this new energy market package, and they support the overall direction of the Commission's proposals. As a follow-up, the EEA EFTA States have submitted their comments to the Commission and the Council on 29 January 2002.

21. The main conclusions in the EEA EFTA position concerning the gas and electricity amendments are as follow:

The EEA EFTA States

- support the independence of the transmission and distribution system operator at least in terms of their legal forms, organisations and decision-makings;
- support the idea of a national regulatory authority, stating that active regulation is important for the development of the electricity market. Nevertheless, the EEA EFTA States disagree with the idea of the authority's advance approval of tariffs;
- do not support the idea of requiring certain specifications on the invoice from the electricity suppliers. The EEA EFTA States believe that the composition of the fuel mix used to generate the electricity, the relative cost of different fuels used to generate a unit of electricity, and the relative importance of each energy source

² Presidency Conclusions - Barcelona, 15 and 16 March 2002.

³ European Economic Area Standing Committee of the EFTA States - 1/EM/W/031

M/20/P/008

with respect to production of greenhouse gases should not be specified on the invoice;

- state that the on-going process between the Commission and the Member States on developing the legal framework for the downstream gas sector will be followed by the EEA EFTA States.

22. The main conclusions in the EEA EFTA position concerning the proposal for a regulation on conditions for access to the network for cross-border exchanges in electricity are as follow:

The EEA EFTA States

- stress the need for a common regulation in this area, emphasising the importance of facilitating cross-border exchanges and competition within the internal electricity market;
- agree that cross-border trade can be important in order to obtain efficient use of the total electricity system, stressing that physical exchange should be based on market prices;
- accept the necessity of a mechanism for compensation of costs for countries that are hosting transit flows, underlining its non-interference with the market;
- agree that the transmission system operators have to pay in accordance with the compensation mechanism;
- stress the difficulties of creating a general mechanism allocating the costs and the payments in a reasonable way;
- stress the difficulties of recovering specific costs for the TSOs incurred by transit, such as establishing a mechanism ensuring adequate return on investment for new installations needed to host transits and financing the building of new network through a general mechanism;
- state that cross border tariffs on the interconnections will not be reintroduced;
- agree that general charges for access to networks must be independent of trade with electricity and be based on non-discrimination;
- support the necessity of public information regarding the capacity on interconnectors, underlining the information exchange mechanisms between TSOs;
- support that congestion problems shall be addressed with non-discriminatory market-based solutions and that curtailment procedures shall only be used in emergency situations. In addition, allocated capacity that is not used shall be reattributed to the market;
- note the proposal of establishing a regulatory and an advisory committee. The competence of these committees and how they impact the roles of the Commission and individual governments must however be clarified.

M/20/P/008

IV EXTENSION OF THE EUROPEAN UNION LEGISLATION TO THE EEA EFTA STATES

23. The electricity and gas sectors come under the scope of EEA competence. First, as goods subject to the objective of free movement, which is an integral part of the internal market that the EEA Agreement wants to attain. Second, as network activities covered by the special provisions on "services of general economic interest", which are the same in the EEA Agreement (Article 59 § 2) as in the EC Treaty (Article 86 § 2). For the sake of homogeneity, rules have to be common in the EEA, but since the EEA has no legislative powers, this regulatory homogeneity means in effect the extension of EU legislation to the other component of the EEA, the three EFTA States. According to the standard procedure of the EEA, this extension is done in two stages: incorporation into the EEA Agreement, transposition in the national legal orders.

A. Incorporation into the EEA Agreement

24. EC legislation on energy is incorporated into Annex IV of the Agreement.

a. **Initial incorporation** (at the time of signature of the EEA Agreement). Energy legislation prior to July 1991 was incorporated into the EEA Agreement at the time of its signature. This was the case for the price transparency and transit directives.

b. **Posterior incorporation.** Incorporation of EU legislation after the conclusion of the EEA Agreement is a continuous task, put under the responsibility of the EEA Joint Committee. The Joint Committee thus decided to incorporate:

- the Directive 96/92 on common rules for electricity on 26 November 1999 with entry into force in July 2000;
- the Directive 98/30 on common rules for gas on 26 October 2001 with entry into force in October 2001;
- the Council Decision 99/280 regarding a Community procedure for information and consultation on crude oil supply costs and the consumer prices of petroleum products (JCD 31/2000);
- the Council Regulation No 2964/95 introducing registration for crude oil imports and deliveries in the Community (JCD 5/97);
- the Directive 94/22 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons (JCD 19/95);
- the Directive 96/57 on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof (JCD 87/97);
- a number of Directives concerning energy labelling.

25. Obviously, legislation recently proposed by the Commission in order to complete the opening of the market is also relevant for the EEA and, when adopted, will have to be incorporated into the EEA Agreement.

V. NATIONAL TRANSPOSITION IN THE THREE EFTA STATES

26. Transposition of EU law incorporated into EEA Agreement is done under the supervision of the EFTA Surveillance Authority which has powers of intervention similar to those of the European Commission.

27. The price transparency and transit directives were transposed by the three countries, together with all the other EC acts incorporated into the EEA Agreement, in a global procedure linked with the ratification of the Agreement itself. The transposition of the directives on common rules for electricity and gas (96/92/EC and 98/30/EC) has just started and is progressing differently in the three countries. It has to be noted that Norway moved further and faster than many EU Member States, and began to liberalise its electricity sector a long time before the directives.

A. Norway⁴

Liberalisation of the electricity and gas markets

28. Norway has transposed the **electricity** directive. Through its own policy of liberalisation, it had already met most of the requirements for opening its electricity market. The process has started in 1986 when separation was made between the political authority responsible for the sector, the nationalised producer and the transport network. As early as 1991, the supply was liberalised entirely, i.e. for all consumers (households as well as undertakings).

29. Transposition of the **gas** directive is still awaited. On the whole, this directive is in the interest of Norway. As a major supplier of gas to the EU market, Norway is keen to see the rapid introduction of liberal measures in the case of gas supply. Norway has no domestic gas distribution market and faces therefore no vested interests seeking to retain monopolies, unlike most EU member states.

Energy discussions between the EU and Norway

30. The Norwegian Gas Negotiating Committee (GFU) was created to coordinate gas exports from all Norwegian producers (now 21) and was for this purpose given the right to distribute supply orders among the producers. This was considered a breach of EEA/EU competition rules by the European Commission which started an infringement procedure. The GFU was abolished completely on the 1st of January 2002. Nevertheless, the EU still constitutes pressures on Norway concerning the GFU-negotiated long-term contracts, which it wants to have re-negotiated. Consequently, the Norwegian gas companies face the threat of a "statement of objections" from the Commission.

⁴ See the annexed factsheet describing the situation of the energy sector in Norway.

31. The Norwegian Government has established a new, wholly state-owned company called Gasco, which will take over the day-to-day transportation of gas to the Continent, including activities such as system operation and license administration. Furthermore, Norway is putting in place a regulator. It proposes to establish regulated access to the gas transport network - including the offshore network.

32. The old Norwegian "concessions laws" could be a problem under EU (or EEA) law: when power stations are owned for more than a third by private or foreign interests, they automatically return to the State without compensation after 60 years. The EFTA Surveillance Authority is currently investigating the legality of this practise, as it is, according to ESA, a discrimination and distortion of competition. At the time of writing, no final conclusion has yet been reached.

33. Norway plays a major role as a producer and net exporter of oil and gas, while the EU is an energy consumer and net importer. Both Norway and the EU share the same goal of price stability. However, the means to achieve this end might differ. This surfaced when Norway decided to support OPEC efforts to reduce production of oil in autumn 2001. This led the European Commission to raise the issue in the EEA Joint Committee, evoking the contravention of Article 12 of the EEA Agreement, which prohibits quantitative restrictions on exports, as well as competition provisions of the EEA.

34. In the face of growing import dependence on energy and the need to cut CO₂ emissions to meet its targets for Kyoto, the EU is introducing indicative targets for the use of renewable energy sources in electricity generation. Norway has a separate target for Kyoto and has an interest as a net energy exporter in the growth exports to the EU. But Norway and the other EEA States are looking into the possibility of adopting the same indicative targets, as they are likely to become the standard requirement for obtaining "green electricity" certification. Norway will most probably satisfy the green power requirements, because almost 100% of its power is generated by hydropower, and has therefore an interest in being included in such a scheme. The Norwegian Government intention is also to be one of the first industrialised countries to ratify the Kyoto Protocol, and it has recently submitted a proposition on the ratification of the protocol and the supplementary white paper on Norwegian climate policy.

B. Iceland and Liechtenstein⁵

35. Neither country has transposed any of the directives yet. In effect, they were granted a further period of two years after the entry into force of the Joint Committee decision: for them, the deadline is 1 July 2002. In March 2002, a bill was put forward before the Icelandic Parliament in order to change the law in accordance with the electricity directive.

⁵ See the annexed factsheets describing the situation of the energy sector in both countries.

VI SOURCES

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RESOLUTION

ON LIBERALISATION OF ENERGY MARKETS IN THE EEA

The Joint Parliamentary Committee of the European Economic Area:

- A. In accordance with its task laid out by the EEA Agreement (Article 95, paragraph 4),
- B. Recalling its earlier resolutions on the single market in energy in 1997 (adopted at its 8th meeting in Oslo, 14 April 1997),
- C. Underlining the importance for the EEA EFTA States in the involvement and participation in the process within the EEA Agreement,
- D. Underlining that legislation relating to the liberalisation of energy market constitute important steps forward in the work to further harmonise the EU/EEA rules in the internal market for electricity and gas,
- E. Emphasising the importance of taking into account environmental concerns and public service obligations in the efforts of liberalising the electricity and gas markets,
 - 1. Recalls the fact that States within the EEA have the sovereign right over all their energy resources and recognises the right to state participation, the exclusive right to resource management and the right to specify and levy taxes;
 - 2. Regrets the minimalist deal agreed in Barcelona, stressing instead a rapid introduction of liberal measures in the EEA in order to secure further development of the internal energy market in a positive direction;
 - 3. Believes that the liberalisation of the energy policies of the EEA must be developed in a sustainable direction taking into account the potential of renewable energy sources and energy efficiency measures;
 - 4. Calls upon the EEA EFTA States and EU Member States to incorporate the amending directives for gas and electricity markets in a manner that ensures a homogeneous European market for energy;

M/20/P/008

5. Stresses the importance that common EEA rules on electricity and gas take into account public service obligations with the aim of securing issues relating to the environment, social exclusion, territorial aspects, energy security etc. when they are incorporated into national legislation;
 6. Welcomes the need for cross-border trading in electricity stressing transparent, legally binding and clearly defined conditions of competition in the EEA;
 7. Notes that a regulatory and an advisory committee are going to be set up under the new Regulation and stresses hence the importance of EEA EFTA participation in the proposed committees according to the general rules of the EEA Agreement;
 8. Stresses the importance of clarifying the competence of these committees and how they impact the roles of the Commission and individual governments;
 9. Calls upon the EEA EFTA States to establish competent and independent regulators in order to enforce full competition and promote the interests of consumers in a liberalised energy market;
 10. Stresses the importance of the EEA countries complying with the decisions for the opening and liberalisation of the electricity and gas markets in a non-discriminatory way.
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EUROPEAN ECONOMIC AREA

JOINT PARLIAMENTARY COMMITTEE

ANNEXES – Facts about energy sectors in the EEA EFTA States

• **THE ELECTRICITY SECTOR IN NORWAY**

With almost 100 % of its electricity produced by hydropower and in the absence of use of gas for heating, the downstream gas sector does not exist in Norway: the country is a big producer of natural gas but its production is entirely exported.

1. General legal framework

According to the 1991 Energy Act:

- imports, production and sale of electricity including exports and supply to all consumers are free as market-based activities;
- but the transmission, being a natural monopoly, is subject to public control that has been delegated to the Water Resources and Energy Administration: this body delivers concessions to network companies for a definite area, obliging them to comply with definite rules for tariffs;
- consequently, suppliers have the right to use the networks of the concessionaires in order to supply their customers.

2. Structure of the sector

Altogether there are 342 companies engaged in one or more activities of the electricity sector, among which 50 % are entirely public (owned by the State or by local authorities), 20 % entirely private and 30 % having mixed ownership.

- a. Production: about 160 companies, among which the State company Statkraft SF accounts for 30 % of the capacity, companies owned by local authorities for 57 % and private companies for 13 %.
- b. Transmission:
 - central network: 34 companies, with a State company, Statnett SF, as a very dominant operator,
 - regional network: about 100 companies,
 - local (or distribution) network: 175 companies.
- c. Supply: 175 companies are engaged in electricity trading, around 70 exclusively, the rest being also involved in other activities of the electricity sector.

3. Public service tasks and obligations

Within the territory of its concession, the holder of a concession must:

- connect to the grid any one applying for a connection, although the customer has to pay for extra-costs of particularly expensive connections (government grants are available when these expensive connections are required by households);
- meet any level of demand;
- apply the same charges to all consumers belonging to the same group.

4. Operators' special rights

- Concession holders have exclusive distribution rights in the area of their concessions.
- But consumers of all types can buy from any supplier.

• ELECTRICITY AND GAS IN LIECHTENSTEIN

1. General legal framework

Electricity

The whole chain (import, production and distribution) has been entrusted by law to the "Liechtensteinische Kraftwerke" (LKW), a State owned company. But only distribution is considered a public service.

Gas

Trade of gas and the construction of the main network is entrusted to the "Liechtensteinische Gasversorgung" (LGV), also a State owned company.

2. Structure of the sector

Electricity

LKW carries out production (25 % of consumption, obtained by water power stations), imports (75 % of consumption coming from Switzerland) and distribution.

Gas

LGV runs imports (a small biogas production has however developed during the last years), transportation and distribution.

3. Public service tasks and obligations

Both LKW and LGV must operate the service regularly and punctually. This general responsibility results in the following detailed obligations:

- obligations to connect (universal service) to the distribution network any consumer who requires it, without discrimination and on the basis of pre-established conditions.

This does not mean that LGV meet every request by a municipality to set up a new gas distribution network, but when one exists, there is a right to connection;

- obligation to supply (continuity of the service): all connected consumers must be supplied without interruption;
- obligation of equal treatment: domestic consumers must benefit from uniform charges whatever their location in the country.

4. Operators' special rights

Electricity

- No formal monopoly for production: independent producers may exist (in effect, they produce essentially for their own needs).
- Imports and distribution: legal monopoly of LKW.

Gas : LGV has an absolute monopoly for imports, transportation and distribution.

• ELECTRICITY IN ICELAND

(There is no gas business, neither production nor distribution, in Iceland)

1. General legal framework

a. Generation and transmission

- Under the new legislation (which will replace the Energy Act No. 58 of 1967), generation will be liberalised: power plants of less than one MW will be freely set up; only above this ceiling, will they need a ministerial authorisation (the ceiling under current legislation being 0,2 MW).
- Transmission will remain a monopoly activity: one company, appointed by the Ministry (for industry and commerce) will be responsible for the building and operation of the whole system. But transmission tariffs will be under the supervision of the National Energy Authority. (Under the present legislation, the National Power Company is entrusted by law with the operation of the transmission system).

b. Distribution and supply

- Distribution operations will be subject to concessions given by the Ministry for demarcated zones. The concessionaires will have exclusive access to the distribution network in their zones.
- Supply will still be subject to a licence. But freedom of choice of the supplier will be established, in two stages: until 1 January 2004, it will be limited to consumers above 100 GWh; after this date, it will be given to all consumers.

(Under the present legislation, distribution utilities are operated in the first place by local authorities and, if the latter decline to exercise this priority, by Iceland State Electricity; they

have not only exclusive distribution rights in their areas but also exclusive rights to supply all consumers in these areas).

2. Structure of the sector

All operators are owned by public authorities (the State or local authorities or both) and most are engaged in several stages of the electricity operation: generation, transmission, distribution, supply.

- The largest producer, the National Power Company (Landsvirkjun) also operates the transmission system and sells to distributors and to large-scale consumers.
- Other large producers are engaged in distribution and sale to households.

3. Public service tasks and obligations

Within their zones, concessionaires of the distribution system will be obliged

- to connect all those who so request,
- to ensure the security of supply.

The same tariff shall apply within each zone.

4. Operators' special rights

Exclusive distribution rights will be maintained for concessionaires in the area of their concessions but they will lose gradually exclusive supply rights.