Review of Unbundling on natural gas market in Bosnia and Herzegovina

EU Acquis, Status Quo in Bosnia and Herzegovina and Gap Analysis

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(DNV GL)
Agenda

10:00 – 11:15
Intro Background & TSO Unbundling

11:15 – 11:30
Break

11:30 – 12:30
DSO Unbundling

12:30 – 13:30
Lunch

13:30 – 14:45
International Experience

14:45 – 15:00
Break

15:00 – 16:30
BiH Status Quo & Gap Analysis, Feedback, Discussion, Next Steps
Introduction, Objectives, Scope

- Actual cost of company
- Regulatory provisions on unbundling
  - Cost related to gas network activities
    - Regulatory assessment of cost efficiency
    - Regulatory allowed revenues
    - Regulatory provisions for cost allocation
      - Allocation of network cost
        - Regulatory provisions on network tariff structure and capacity products
        - Network tariffs
  - Cost related to other (competitive) activities
    - Analysed in this sub-project report
    - Sum of network tariffs needs to match allowed revenues
      - Analysed in separate sub-projects
Background: The Gas Value Chain (Unbundled from VIU)

- Avoids potential conflict of interest for integrated utilities
- Prevents utility to shift costs between regulated and unregulated businesses
- Enables utilities to identify the cost structure of their business activities
- Allows for separate costing of services and introduction of competition
Effective unbundling mandatory for wholesale + retail competition

- Integration of monopolistic and competitive business areas within single company
  ➔ incentives to hinder development of wholesale and retail market competition

1) TSO / DSO affiliated to generation unit / retail supply unit of a utility
  ➔ strong incentives to discriminate other generators / suppliers that compete with affiliated generation / retail supply unit

2) Strong incentives for integrated utility to shift costs from activities in competitive market segments to regulated transmission / distribution business in order to gain competitive advantage on wholesale / retail market

To avoid discriminatory behaviour effective unbundling of transmission and distribution activities from generation and retail supply necessary
In principle, Member States are free to choose one of the models. However, any TSO set up after the implementation of the EU Directive 2009/73/EC, i.e. 3 September 2009 must comply with the ownership unbundling (OU) model.

Moreover, any ISO or ITO could be transformed into OU, but the reverse is not possible.

Independent from ownership or legal structure, natural gas companies shall unbundle their accounts and submit to audit and publish their annual accounts as any other company.
Ownership Unbundling (OU)

Ownership and Functional unbundling

– Transmission ownership and transmission system operation are conducted by one entity. This entity must be independent in ownership from any gas production, import or supply business activities.

– This requires:
  – No person with dual management role in generation / supply and transmission
  – No person with majority shareholdings, power to exercise voting rights or to appoint members of supervisory or administrative board / bodies
  – No entity active in generation / supply allowed to exercise direct / indirect control over TSO (applies also to ownership by persons from third (non-EU) countries)
  – If TSO and generation / supply entities are state-owned, control is to be exercised by two separate public bodies (e.g. agencies, ministries)

Informational unbundling

– Commercially sensitive information to be preserved
– Staff possessing such information not to be exchanged between TSO and generation / supply entities
Independent System Operator (ISO)

<table>
<thead>
<tr>
<th>Responsibilities/Tasks of ISO</th>
<th>Responsibilities of Network Owner</th>
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<tbody>
<tr>
<td>All obligations applicable to TSOs (article 13)</td>
<td>Provide cooperation and support to the ISO, including relevant information on the network</td>
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<tr>
<td>Granting TPA</td>
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<td>Collection of access charges</td>
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<td>Congestion charges</td>
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<td>Inter-TSO compensation</td>
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- Effective decision-making rights, independent from VIU with respect to assets necessary to operating, maintain and develop the transmission system

- Investment planning and obtaining necessary authorisations

- Obligation to finance investments decided by ISO and approved by NRA

- Transmission assets remain with vertically integrated company, but technical and commercial operation of transmission system is performed by ISO, acting as a TSO

- ISO must demonstrate that it has at its disposal the required financial, technical, physical and human resources to carry out its tasks

- ISO must be independent from supply or production interests and must comply with relevant rules on ownership unbundling. Also, ISO must have a strong say in investment planning

- Transmission system owner is legally and functionally unbundled
Independent Transmission Operator (ITO): (chapter IV)

Legal and Informational Unbundling of ITO
- ITO organised in a separate legal entity with a different corporate identity (branding, premises,…)
- No shared IT systems or equipment

Responsibilities/Tasks of ITO (art. 13, 17-20)
- ITO has required financial, technical, physical and human resources under disposal
- Owns transmission assets
- Employs own staff (no leasing to and from VIU) necessary for activity of transmission (incl. corporate tasks)
- Conducts all corporate services (incl. legal, accountancy, IT services)

- Functional Unbundling of ITO
  - Effective decision making rights on operation, maintenance and development of transmission assets independent of holding company
  - Power to raise money (borrowing / capital increase)
  - Commercial and financial relations between holding and ITO shall comply with market conditions (made available to NRA on request)
  - Changes in management positions to be notified to NRA
  - Management not allowed to hold job position within integrated company 3 years prior and 4 years after management position at ITO
  - No management personal with dual role in generation / supply and transmission
  - Annual, long-term decisions made by supervisory body (art.20)
  - Compliance programme and compliance officer (art.21)
Role of NRA

As in the ISO model, also in the ITO model there are specific duties for the NRA.

- Monitoring of the relations and communications between the ITO and the VIU, including the approval of any contracts between the ITO and VIU.
- NRA can also issue penalties for discriminatory behaviour and act as dispute settlement authority between the ITO and VIU.
- NRA may request justification from the VIU as to any proposed investments.
Unbundling Models—Practice in the EU

- **OU+IS**: Spain, Sweden, Poland
- **ITO+OU**: France, Italy, Germany, Hungary, Ireland, Belgium, Netherlands, Denmark, Czechia, Croatia, Lithuania, Estonia
- **OU**: Austria, Slovakia, Slovenia, Bulgaria, Greece
- **ITO**: Romania
Certification Procedure

- The certification procedure is applicable to all unbundling models.

- **Notification to NRA**
  - Submitted by TSO

- **Preliminary Certification Decision PCD**
  - Adopted by NRA in 4 months and notification of PCD to EC

- **EC's opinion on PCD**
  - Adopted by EC's in 2 months or in 4 months when ACER is involved

- **Final certification decision**
  - Adopted by NRA in 2 months approval and designation of TSO (by MS)

- **Notification of designation to EC**
  - Publication in Official Journal of EU

- Notification to the NRA combined with the submission of all relevant data and information covering each requirement for the selected model of unbundling.

- NRA to monitor compliance of the TSO with the unbundling rules continuously and can open a new certification procedure if changes in rights and influence over the TSO are expected.

- NRA required to notify the European Commission of its explicit or tacit decision on the certification of a TSO.

- EC has two months to examine the decision and to deliver its opinion.

- EC is entitled to request an opinion from ACER on the preliminary decision by the NRA.
Certification Procedure

TSOs certified by NRA / designated by the competent authority - gas

- Number of certified TSOs
- Number of designated TSOs

* Germany: 14
Compliance Programme and Compliance Officer

- Article 10(4) of the Directive: continuing compliance of TSOs with the unbundling requirements shall be monitored by the NRA.

- Reporting obligation on TSOs to notify the NRAs about any planned transaction which may require a reassessment of TSO’s compliance with the unbundling requirements.

- Article 21 requires that the transmission system operators establish and implement a compliance programme which sets out measures to ensure that discriminatory conduct is excluded.

- The compliance officer shall be appointed by a supervisory body subject to approval by the regulatory authority.

- Responsibilities of Compliance Officer: e.g. annual report on measures taken to implement compliance program, reporting to NRA on any commercial & financial relations between the VIU and the TSO.
Break
Unbundling Provisions for Distribution

- Basic Forms of unbundling as provided in Article 13 of the EU Gas Directive 2003/55/EC
Unbundling of distribution and the retail supply business required in 4 areas

**Legal unbundling:** establishment of separate legal entities for the major functions along the energy value chain of energy companies. Nevertheless, those legal entities may still belong to one company holding shares of various legal entities.

- **Target of legal unbundling** is to increase the independence of activities between the ‘regulated’ network and competitive business areas.
- **Requires management teams and capacities for each entity.**
- **Requires the separation of assets and property rights from the VIU - asset register which includes all of the assets of the VIU and can serve as basis of the asset allocation.**
- **Nevertheless, the entities may continue using assets of other entities or the former vertically integrated utility based upon contractual agreements.**
- **Shared services:** provision of services by other parts of the VIU to the DSO only be limited and accepted under the condition that competition is ensured and conflicts of interest excluded.
- **To avoid potential cross-subsidies given to the DSO by other parts of the VIU, the shared service should be provided at “market conditions” and laid down in a “contractual arrangement.”**
### Unbundling of distribution and the retail supply business required in 4 areas

**Functional Unbundling comprises six major components:**

<table>
<thead>
<tr>
<th>Component</th>
<th>Requirements</th>
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<tbody>
<tr>
<td><strong>Separation of organisational structures</strong></td>
<td>• Management separation (no management personal with dual role in distribution and generation or supply)</td>
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<tr>
<td><strong>Independence from the parent company</strong></td>
<td>• Must have sufficient personal, technical, financial and material resources to operate the network.</td>
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<td></td>
<td>• Have the full decision-making power concerning assets for operation, maintenance or expansion of the network.</td>
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<td></td>
<td>• Effective decision-making rights on operation, maintenance and development independent of holding</td>
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<td><strong>Independent management of the unbundled companies</strong></td>
<td>• VIU in principle free to choose the legal form of the DSO, provided that a sufficient level of independence of the management of the DSO from other parts of the VIU in order to fulfil the requirements of functional unbundling</td>
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<tr>
<td><strong>Human resource management</strong></td>
<td>Prerequisite that employees who are working for the company are not allowed to work for the parent company itself or another company which belongs to the parent company to guarantee the confidentiality of commercially sensitive information, the transfer of employees between the unbundled companies and the parent companies should be restricted. E.g. (cooling-off periods)</td>
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<tr>
<td><strong>External communication</strong></td>
<td>Care should be taken with its communication, activities and branding in order to prevent confusion. E.g. unbundled companies which are active in competitive markets must not benefit from the credibility of the network operator.</td>
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<tr>
<td><strong>Monitoring</strong></td>
<td>Compliance programme and compliance officer</td>
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- Legal and functional unbundling apply only for DSOs > 100,000 connected customers
Unbundling of distribution and the retail supply business required in 4 areas

**Informational unbundling**

- Information Unbundling refers to two component (1) separation of IT systems and of personnel with direct access to information (access rights) and (2) separation of data between unbundled companies
- Commercially sensitive information to be preserved (i.e. no privileged access to databases by personnel working at integrated company)
- Separation of distribution and retail supply data by two IT systems or restricted IT access rights

<table>
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<tr>
<th>Integrated IT-system</th>
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<tbody>
<tr>
<td>Integrated Client</td>
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<tr>
<td>Supply contract</td>
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<tr>
<td>Network Contract</td>
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- Within the **2-Contract-Model** the IT-System of the (former) vertically integrated energy company remains integrated, i.e. the IT-System can be owned and operated by either part within the company.
- But either for each role of the integrated company (no further unbundling), or for each unbundled company, separate contracts will be created for each customer. This also implies the establishment of separate accounting areas.
- To ensure non-discriminatory network access, the access to sensitive information may be restricted for employees of the supplier.
- In practice, practical problems can occur when seeking to restrict user rights.
Unbundling of distribution and the retail supply business required in 4 areas

- To increase transparency and to lower discrimination issues, clients for each (unbundled) company are established within the **2-Client-Model**.
- Again, either part of the company can own and operate the IT-system. Due to the need to create separate databases, customer data needs to be doubled and subsequently maintained twice (i.e. once for each client) in parallel within the system.
- Leads to higher costs, but on the other hand it supports the consideration of other and new market participants (e.g. supplier) effectively.

- In order to achieve a maximum degree of non-discrimination, separate IT-systems for each unbundled organization can be established within the **2-System-Model**.
- Only this option allows identical (market) processes between the TSO and all suppliers, including the supplier of the former vertical integrated energy company.
Unbundling of distribution and the retail supply business required in 4 areas

Accounting unbundling

- Refers to the establishment of separate book-keeping systems for major functions along the energy value chain
- This implies establishing individual profit and loss accounts and balance sheets for the separate activities.
- In cases where legal unbundling has not been implemented yet, accounting unbundling refers to a virtual separation of book-keeping.
- Accounting unbundling is the minimum form of separation
- National regulatory authorities have right of access to accounts
- In practical terms, unbundled network operators need to publish all major transactions with related companies (belonging to the same parent company), including (1) purchases and their value, (2) kind of sales and their value and (3) financing costs (e.g. dividend payments to related company).
- With respect to the cost of shared-services (e.g. IT central functions) and other overhead cost items, cost allocation schemes have to be elaborated by the parent company including a clear definition of the cost basis and cost drivers for the respective services.

Informational and accounting unbundling apply for all DSOs
Compliance Programme and Compliance Officer

- Article 26 (2)(d) of the Directives also sets out requirements for the installation of a compliance programme. All employees of a DSO must meet the requirements set out in this programme and an annual report summarising the measures taken has to be submitted by a responsible person or body (compliance officer) to the NRA.

- The compliance programme should provide a formal framework for ensuring that the network activities, as well as individual employees and the management of the DSO, comply with the principle of non-discrimination.

- The compliance programme should be actively implemented and promoted through specific policies and procedures. Such policies may consist, inter alia, of the following elements:
  - Active, regular and visible support of the management for the program;
  - Written commitment of staff to the program by signing up to the compliance programme;
  - Clear statements that disciplinary action will be taken against staff violating the compliance rules;
  - Training on compliance on a regular basis and notably as part of the induction program for new staff.
Exemptions for DSOs serving less than 100,000 connected customers

• Article 26(4) of the Gas Directive, smaller DSOs serving less than 100,000 connected customers can be exempted from the requirements of both legal and functional unbundling.

• In this case the company can continue to operate the distribution network and its supply/generation activities with the same legal entity.

• Accounting unbundling is a basic principle set out in Article 31 (3) of the Gas Directive to which energy companies must keep separate accounts for each of their transmission and distribution activity.
  • No derogation from the rules of accounting unbundling in case of DSOs serving less than 100,000 customers – accounting unbundling is the minimum separate requirement that all DSOs must comply to without any exception.
International Experience: Serbia – Regulatory Framework

• Law on Energy (December 2014)
  • In Section VIII Natural gas defines requirements regarding certification of transport system operator
  • TSO Certification:
    - Initiation of process:
      • Legal Entity - Candidate
      • Regulatory Agency
      • Responsible Body (Energy Community Secretariat)

• Rulebook on Licenses for Performance of Energy Activities and Certification (October 2015)
  • Specifies in more details, the conditions related for certification of transport system operator

• Two “candidates” for certification: Srbijagas and Yugorosgaz
International Experience: Serbia – OU independence

- Producer / Supplier cannot manage or have rights over TSO
- TSO cannot manage or have rights over Producer / Supplier
- Entity with rights in Producer / Supplier cannot nominate members in TSO Supervisory Board
- Producer / Supplier cannot have member in TSO Supervisory Board
- TSO part of VIU cannot share sensitive data with Producer / Supplier part of VIU
International Experience: Serbia - ISO

• ISO – Requirements:
  • “OU independence”
  • Have employees, financial, material and technical resources
  • Adhere to 10-years development plan
  • Perform operations in accordance with the Law

• Owner – Requirements:
  • Provide cooperation and support to ISO
  • Finance investments from 10-years plan (or give consent others to finance)
  • Fulfill obligations related to transport system
  • Provide guarantees enabling development financing
International Experience: Serbia – ITO

- ITO shall have all resources relevant for operation
- Forbidden provision of services between ITO and other parts of VIU
- On ITO request, VIU provides timely financing for investments
- Producer / Supplier parts of VIU cannot have stake in ITO
- ITO cannot have share (or any profit) from VIU Producer / Supplier companies
- ITO must be distinguished from VIU
- ITO must not have common IT, systems, equipment,…
- ITO’s auditor cannot be the same as VIU auditor
International Experience: Serbia – Compliance Program and Compliance Officer

• In addition ITO has to:
  • Implement Program for non-discriminatory behavior – Program contains measures for prevention of such behavior, responsibilities of employees and supervision
  • Appoint Compliance Officer to monitor the program – Agency approves appointment and dismissal

• Compliance officer duties are:
  • Monitor the implementation of the Program
  • Prepare annual report for Agency on realized measure
  • Submit report to managerial body and recommend improvements
  • Notify Agency about violation of the non-discrimination provisions
  • Submit report to Agency on commercial and financial links between VIU and TSO
  • Provide other information as requested by Agency
International Experience: Serbia – Rulebook

• Contains Section III Certification

• Provides additional details about process:
  • Content of Request (forms, data, documents, etc…)
  • Decision on Certification (name, address, model, justification…)

• Request for certification has form OS1 and one of three forms:
  • OS 3.1 for Ownership Unbundling
  • OS 3.2 for Independent System Operator
  • OS 3.3 for Independent Transport Operator
International Experience: Serbia – TSO Certification: Current situation/ Lessons Learned

• Srbijagas
  • Two new companies created (Transportgas Srbija and Distribucijagas Srbija)
  • ITO model
  • Action plan from 2016 was not realized
  • Failure of unbundling in line with Second package

• Yugorosgaz
  • Yugorosgaz Transport applied for ISO model
  • Agency did certification conditionally
  • Opinion of Energy Community
  • Yugorosgaz Transport didn’t fulfill Agency’s conditions
  • Failure of unbundling in line with Third package
International Experience: Serbia – DSO Unbundling

- Distribution companies have separate bookkeeping from supply and other energy and/or non-energy activity

- DSO that belongs to VIU, is obliged:
  - To be independent from other activities not related to distribution in legal, organizational and decision making form
  - To adopt compliance program to ensure of non discriminatory

- These requirements applies for more than 100 000 final customers
International Experience: Serbia – DSO Unbundling: Current situation

- All DSOs have less than 100,000 connected customers
- Thirty two* (32) license holders for gas distribution and distribution system operator
- Twenty five (25) from them have at the same time license for natural gas supply
- Srbijagas performs distribution activity but:
  - Does not have license for distribution and is not unbundled
  - Daughter company Distribucijagas Srbija should carry out distribution activity – but it doesn’t (and does not have license either)

* Data from Agency web site
International Experience: Croatia – Regulatory Framework

• Law on Gas Market (February 2018)
  • In Section IV Transport System Operator defines requirements regarding certification of transport system operator

• Candidate for Certification:
  • PLINACRO d.o.o.
International Experience: Croatia – TSO Certification

• Process is initiated by:
  • Transport System Operator
  • Ex officio by Agency
  • European Commission instructions

• Three models are offered
  • Ownership Unbundling (Article 15)
  • Independent System Operator (Article 16 - 18)
  • Independent Transport Operator (Article 19 – 23)

• Case of control from person(s) from Third Country (Countries)
International Experience: Croatia – OU independence

• Same persons cannot simultaneously:
  • Be involved in energy production, trade and supply and gas production and control or have rights over transport activities
  • Be involved in transport and transport activities and control or have right in energy production, trade and supply and gas production
  • Be involved in energy production, trade and supply and gas production and appoint member in transport activities
  • Be Members of Managerial Bodies of energy subjects involved in energy production, trade and supply and gas production and energy subjects doing transport activities

• TSO which is a part of VIU cannot share confidential data with other parts of VIU involved in energy production, trade and supply and gas production
International Experience: Croatia – ISO

- ISO – Requirements
  - “OU independence”
  - Sufficient resources (financial, material, technical...)
  - Align with 10-years plan
  - Execute tasks from Regulation 715 / 2009 and cooperate on regional / European level
  - Operate energy and develop transport system
  - Do investment planning

- Owner – Requirements
  - Support ISO
  - Finance investments as decided by ISO or give consent on financing by other stakeholders
  - Transport system fixed assets
  - Provide guarantees for own financing
International Experience: Croatia – ITO requirements

• Has ownership over transport system and assets necessary for ITO operation
• Employs entire required stuff
• Transfer of staff is prohibited (with two exceptions)
• VIU provides necessary financial resources, on request of ITO
• VIU parts that perform natural gas production and supply can have equity interests in ITO and vice versa
• VIU cannot influence on preparation of 10-years plan by ITO
• ITO must be clearly differentiated from VIU by specific corporate identity, communication, company name and business premises
• ITO cannot share IT systems or equipment, business premises and secure access systems
• Auditors of ITO and VIU must be different
International Experience: Croatia – Compliance Program and Compliance Officer

• In addition ITO has to:
  • Adopt compliance program with measures against discriminative and biased behavior - Program determines obligations of employees in this sense and should be approved by Agency
  • Appoint Compliance Officer

• Compliance Officer’s tasks:
  • Monitoring of Program implementation
  • Preparation of the Annual report for Agency
  • Preparation of reports for Supervisory Board with recommendations
  • Informing Agency about breach in Program implementation
  • Preparation of reports for Agency about commercial and financial relations between VIU and TSO
  • Attends relevant meetings
International Experience: Croatia – TSO Certification: Current situation/Lessons Learned

• PLINACRO d.o.o. submitted application for certification in OU model in May 2013
• PLINACRO d.o.o. withdrew and re-submitted application for certification in same model in April 2015
• Process is still ongoing
• Reason:
  • Simultaneous control of State administrative bodies over PLINACRO d.o.o. and subjects engaged in “energy activity of production, trade, energy supply as well as energy activity of natural gas production”
• Long-term process / ongoing…
International Experience: Croatia – DSO Unbundling: Current situation

• DSO with less than 100,000 customers connected, which is part of VIU is exempted from unbundling requirements by the Law

• Forty two* (42) suppliers and thirty five (35) distributors

• From 35 distributors:
  • Twelve (12) are organized as independent companies, dealing only with distribution
  • Twenty three (23) are organized as VIU, active in distribution and supply

*Data from 2016 Agency Annual Report
International Experience: France–TSO Background

- **TSO GRTgaz** (Gestionnaire du Réseau de Transport Gaz) covers transmission pipelines with a length of over 32,000km, transporting around 60 bcm of natural gas to its customers, and employing close to 3,000 people.

- As a regulated network operator, GRTgaz is subject to the rules of the Third Energy Package and is obliged to follow EU’s unbundling requirements.

- GRTgaz was certified as an independent gas TSO following the ITO model in 2012, under the majority ownership of Engie (former GDF Suez).

Legal & Regulatory Framework

- Before unbundling, TSO GRTgaz was part of the traditional vertically integrated gas undertaking GDF Suez.

- 1st (1998) and 2nd Gas Directive (2003) allowed the French State to fulfil EC’s requirements on market opening, third party access, and also unbundling while being able to keep considerable control over the gas system, mainly through ownership rights and governance structure in GDFSuez and the TSO.

- In 2005 when legal unbundling was implemented, the new legal entity GRTgaz was established.
International Experience: France–TSO Background

The French Government 33%

Energy France business line
Energy Europe & International business line
Global Gas & LNG business line
Infrastructure business line
Energy Services business line
Environment business line

- **GRTgaz**
  - 2005 - creation of legally separated TSO
  - 2012 – ITO unbundling

- **GRDF**
  - 2008 - creation of DSO, GrDF and legal and functional unbundling

- **storengy**
  - 2008 - creation of Storengy, France’s main Storage operator

- **elengy**
  - 2008 - creation of elengy, France’s main LNG operator
International Experience: France – Legal & Regulatory Framework

• **French Energy Code** (Order No. 2011-504 of 9 May 2011):
  - brought together all relevant legal acts;
  - added new legislation concerning unbundling, increased powers and duties of the regulator, and issues around compliance and the certification process (3rd Gas Directive)

• **ITO model** chosen for reasons of ownership of assets with a strong government’s conviction of keeping its role in strategic sectors of the economy—opposition to full privatisation (OU).
International Experience: France – Practical Implementation

• The practical implementation of imposing an ITO model on GRTgaz started in 2011 and included a multiple set of actions by various stakeholders (EC, the French government and the regulator (CRE) as well as the GDFSuez and GRTgaz).

• The final certification of GRTgaz by the CRE was issued in 2012, after the European Commission’s approval.
  • Although certified GRTgaz still needed to complete some practical steps of the unbundling process e.g. separation of IT systems were completed only in 2016.
International Experience: France – Practical Implementation

- Governance Reform of GRTgaz: Directive, Art. 20 requires the independence of the Supervisory Board applying to at least half of the members minus one.

*SGI, Société d’Infrastructures Gazières (SIG) is government fund that acquired 25% stake in GRTgaz in 2011.
International Experience: France – Practical Implementation

- Corporate restructuring of GRTgaz: after the governance structure, the organizational and operational aspects of GRTgaz followed
International Experience: France – Compliance Program / Officer

• In accordance with article L. 111-34 of the French Energy Code, since 2011, GRTgaz has a manager in charge of monitoring compliance of its practices with the independence requirements to which GRTgaz is now subject to.

• The compliance officer is appointed by the Board of Directors after the nomination of the CEO and approval of the NRA. It is a full-time position and the compliance officer is a non-voting member of the Board of Directors.

• Officer is in charge of:
  – verifying that GRTgaz applies all of the commitments set forth in the Code of Conduct.
  – The Compliance officer supplies annual reports and without delay informs the NRA of all matters relating to the independence of the TSO.
International Experience: France–DSO

The French Government 33%

Engie

Energy France business line
Energy Europe & International business line
Global Gas & LNG business line
Infrastructure business line
Energy Services business line
Environment business line

- 2005 - creation of legally separated TSO
- 2012 – ITO unbundling

- 2008 - creation of DSO, GrdF and legal and functional unbundling

- 2008 - creation of Storengy, France’s main Storage operator
- 2008 - creation of Elengy, France’s main LNG operator
International Experience: France – Distribution

Around 11 million consumers are connected to the natural gas distribution networks. They are supplied by 26 natural gas distribution system operators (DSOs) of varying sizes:

- **GRDF** distributes 96% of the natural gas distributed and transports natural gas across most of France
- 22 smaller DSOs, also known as local distribution companies:
  - Régaz-Bordeaux and R-GDS, each account for around 1.5% of the total gas distributed in France, and supply areas around Bordeaux and Strasbourg.
  - **20 other DSOs** account for a total of 1% of the gas distributed, all have less than 100k customers and are not legally required to unbundle.
International Experience: France – Lessons Learned

In terms of compliance with the EU’s legislation concerning the creation of the Internal Market, transparent structure and non-discriminatory operations, or contributions to increase levels of security of supply, GRTgaz and France respectively achieved these.

- GRTgaz generally fully satisfies the regulator CRE and its compliance.
- It grew into one of the most robust TSO in the EU, being able make acquisitions also outside France.
- After initial concern about the independence of the board, today GRTgaz has a transparency governance including outside the gas industry members as academics for example.
- Security of supply is high on agenda compared to other EU countries and it is partly responsible for determining where GRTgaz also targets investment. As a result France enjoys a good position in terms of security of supply when measured for instance by N-1 standard.

- A major obstacle during the transition and unbundling process was the separation of IT system which has been a lengthy process and was challenged by the EC
- On the other hand, IT operations posed some sensitive challenges and their handling was also expected to last years before the system is completely independent from the VIU.
Break
Status Quo in Bosnia and Herzegovina (Transmission)

• The gas transportation network of Bosnia and Herzegovina is owned and operated by three companies.
  • BH Gas in the Federation of Bosnia and Herzegovina: operates the largest part of the gas pipeline (189 km) located in the Federation of Bosnia and Herzegovina
  • Gas promet a.d. Istočno Sarajevo – Pale has licenses for two activities: natural gas transport system operation and natural gas transport in Republika Srpska:
    • Gas Transport Licence valid for operates 24,2 km of pipeline
    • Gas Transport system operator for 64.2 km.
  • Sarajevo-gas a.d. Istočno has a license for natural gas transport for 40 km of pipeline between Žvornik and Kladanj but not for transport system operation.
  • Gas promet acts as transport system operator for "Sarajevo-gas" a.d. Istočno Sarajevo network)
Status Quo in Bosnia and Herzegovnia (Distribution)

- Gas use in the country is limited by the distribution network which is only present in Sarajevo, Zvornik and Visoko.
  - Zvornik Stan a.d (5 year licence, expiry date 31.07.2019): 47.71 km distribution network, 18 industrial, 1 district heating, 103 commercial (99 active) and 1072 (517 active) households
  - Sarajevogas d.o.o has 55000 active and 10000 inactive customers. It operates approximately 1127 kilometers of low-pressure gas distribution network.
  - Visoko - Ekoenergija, 13 employees, 100 km distribution network, 1700 households connected.

- In both entities, distribution activities are performed by the same companies engaged in the supply of and trade in natural gas.

New Distribution Networks

- Bijeljina: In the Republika Srpska, in the city of Bijeljina a new gas distribution network (approximately 300km) and a transmission pipeline (20km) that connects to the main pipeline between Šepak and Zvornik has been constructed.
  - At present, they have not been issued a licence by RERS. According to our information RERS has received an application from the same company for transmission, distribution and supply licence for Bijeljina.
  - It is unclear whether it is planned that a separate company for transport gas activity will be established, whilst Bijeljina-Gas will be in charge for distribution. – discuss during workshop

- Zenica: In the Federation of Bosnia and Herzegovina, it is planned to build a gas distribution (120 km long) network.
  - Zenica has had a high-pressure gas pipeline since 1983, but a gas distribution network has never been developed – confirm status during workshop
Legal and Regulatory Framework

• For unbundling and certification in natural gas sector, the main documents reviewed and related to unbundling include:
  • State Level: Draft Law on Electricity and Gas Regulator and Electricity Transmission System and Market in Bosnia and Herzegovina (2016)
  • Federation BiH: Draft Law on Gas for Federation BiH (July 2014) and Decree on Organization and Regulation of Gas Sector (October 2007)
  • Republika Srpska: Law on Gas (22 February 2018)
General Observations (I)

Draft State Electricity and Gas Law

- Still primarily aimed at regulation of **electricity** sector
  - chapter VI, article 33, reference is made only to ownership unbundling of the transmission network operator, however upon reading this is related to electricity activities and no reference to the gas sector is made.
  - The draft State Law does not mention any of the other two forms of unbundling namely independent System Operator (ISO) and independent transmission operator (ITO).
  - In regard to certification of the transmission system operator, article 34 provides some provisions but again refers to electricity and not the gas sector. Article 34 describes the process for certification but again relates to electricity.
  - In respect to unbundling for gas distribution system operators, there is no reference covered in this draft State Law.
General Observations (II)

Federation Bosnia and Herzegovnia: Draft Gas Law

• Chapter VII relates to all aspects of unbundling of activities in the natural gas sector. Includes unbundling rules for the gas transmission and for the gas distribution system operators as well as storage, the LNG and combined system operators.

• TSO Unbundling Provisions
  • No reference to the three different unbundling options for TSO. There is however specific reference to independent system operator (ISO) option, appears that the Federation may have implicitly decided on the unbundling model of an independent system operator (ISO) and a transmission owner. – confirm?
  • Certification of TSO: The draft FBiH law does not include any rules regarding the certification of gas transmission system operators. This is missing in this document.
  • Compliance Program and Compliance Officer: not covered in this draft law

• DSO Unbundling Provisions:
  • Article 20 provides the Unbundling Rules for the Gas Distribution System Operator, includes independence of the staff and the management of the DSO
  • The role of the compliance program and compliance officer is not covered in this draft law
  • Exemption of unbundling less than 100,000 customers included article 20 (6)
General Observations (III)

Republika Srpska: Gas Law

- TSO Unbundling Provisions:
  - Article 36 of the Gas Law sets out the three unbundling models (ownership, ITO and ISO) of the gas transmission operator.
  - Articles 37-43 provides the criteria and the tasks for each of the unbundling models. It covers the criteria for each of the unbundling options. Also covers the tasks, responsibilities and requirements that needs to be fulfilled in order to operate as an ITO, ISO or have ownership unbundling.

- Certification of TSO:
  - Article 44 of the Gas Law, licence can be obtained for carrying our transmission activities. Regardless of the unbundling model chosen, the TSO needs to be certified before a licence is issued.
  - The drafting of a separate Rulebook for Certification of Transport System Operators is currently being prepared and is expected to be enacted in March 2019.
  - Description of the certification process is provided and the respective timelines for the submission to the announcement of the decision is provided. These comply with the requirements set out in (EC) 715/2009 Art. 3 and Article 10 of the Gas Directive.
General Observations (IV)

Republika Srpska: Gas Law

- Compliance Program and Compliance Officer:
  - Article 39 (2d) for independence of the transmission system owner and article 41 (13 and 14) for ITO
  - Includes the requirement for monitoring and annual reporting related to compliance
  - Task of the independent transmission operator to appoint a compliance officer to monitor the implementation of the ‘Non-Discriminatory Behavior Program’ but at the same time also authorizes to Ministry to regulate in greater detail the method of appointment, conditions for carrying out the duties and competences of the Compliance Officer.

- DSO Unbundling Provisions:
  - Article 70 provides the unbundling requirements in terms of legal, organisation, decision-making of the DSO that is part of a vertically integrated undertaking.
  - Sets out the roles, duties, tasks and responsibilities of the DSO.
  - Clearly provides the criteria for independence for example management of the DSO cannot participate in management of other natural gas activities (e.g. production, transport, supply).
  - the Gas Law article 70 (10) provides an exemption for the unbundling provisions of distribution system operators with less than 100,000 customers connected to the grid.
## Gap Analysis (I)

<table>
<thead>
<tr>
<th>Topic</th>
<th>Bosnia and Herzegovina (national level)</th>
<th>Federation BiH</th>
<th>Republika Srpska</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Unbundling options of transmission systems and transmission system operators</strong></td>
<td>▪ Law on Electricity &amp; Gas Regulator and Electricity Systems and Market – draft only. Not adopted</td>
<td>▪ Does not provide information on the three forms of unbundling options</td>
<td>▪ Gas Law, Article 37-40 describes the unbundling options</td>
</tr>
<tr>
<td></td>
<td>▪ Not covered</td>
<td>▪ Implicitly assumes ISO/TO model;</td>
<td></td>
</tr>
<tr>
<td><strong>Designation and certification of transmission system operators</strong></td>
<td>▪ Law on Electricity &amp; Gas Regulator and Electricity Systems and Market – draft only. Not adopted</td>
<td>▪ Not covered (it would be okay if delegated to and organized at state level but this is not in the draft State Law)</td>
<td>▪ Gas Law, article 40</td>
</tr>
<tr>
<td></td>
<td>▪ Not covered</td>
<td></td>
<td>▪ Rulebook for Certification of Transport System Operators is currently in progress</td>
</tr>
</tbody>
</table>
### Gap Analysis (II)

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</table>
| Independence of the staff and the management of the transmission system operator | - Law on Electricity & Gas Regulator and Electricity Systems and Market – draft only. Not adopted  
- Not covered for gas sector                                                                                      | - Article 17 and 19 of draft Gas Law covers some provisions of unbundling of business management and their roles and responsibilities.  
- The approval of the annual financial plan or withholding funds by the VIU required to finance activities and/or investments of the network which have been approved by the regulator is not in line the Gas Directive Article 14 (5). | - Gas Law in Art 38 -42                                                                                                                                                                                   |
## Gap Analysis (III)

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<tr>
<td>Compliance Program and compliance officer (TSO)</td>
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<tr>
<td>▪ Law on Electricity &amp; Gas Regulator and Electricity Systems and Market – draft only. Not adopted</td>
<td></td>
<td>2) Lacks rule on compliance officer and compliance programme (see Art. 26 (2)(d))</td>
<td></td>
</tr>
<tr>
<td>▪ Not covered for gas sector</td>
<td></td>
<td></td>
<td>Allows the Ministry to nominate &amp; appoint the Compliance officer. Not completely in line with article 21 of EU Gas Directive</td>
</tr>
<tr>
<td>Unbundling of distribution system operators</td>
<td></td>
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<tr>
<td>▪ Law on Electricity &amp; Gas Regulator and Electricity Systems and Market – draft only. Not adopted</td>
<td></td>
<td>Included in article 20 of draft Gas Law</td>
<td>Included in Article 70-71 of Gas Law</td>
</tr>
<tr>
<td>▪ Not covered for gas sector</td>
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## Gap Analysis (IV)

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</tr>
</thead>
</table>
| **Independence of the staff and the management of the DSO** | - Law on Electricity & Gas Regulator and Electricity Systems and Market – draft only. Not adopted  
- Not covered for the gas sector | - Included in article 20 of draft Gas Law | - Included in article 70 of Gas Law |
| **Compliance Program and compliance officer (DSO)** | - Law on Electricity & Gas Regulator and Electricity Systems and Market – draft only. Not adopted  
- Not covered for gas sector | - The role of the compliance program and compliance officer is not covered in this draft law | - Compliance Program Included in Article 70 (7) of Gas Law  
- The role and appointment of the Compliance Officer is missing in the Gas Law. |
| **Unbundling of accounts**                 | - Law on Electricity & Gas Regulator and Electricity Systems and Market – draft only. Not adopted  
- Not covered for gas sector | - Included in Art. 17 (2) of draft Gas Law | - Included in Article 8 of Gas Law |
Feedback/Input from Stakeholders, practical elements

• Does our assessment reflect the reality?
• Questions/Remark/Feedback
• Next Steps....
Hvala!

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