

# Implementation of different unbundling options in electricity and gas sectors of the CEE EU member states

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The article analyses implementation of the Third Energy Package in the Central and Eastern European countries, members of the EU. The main focus is given to different unbundling options applied for the transmission of electricity and gas: full ownership unbundling, an independent system operator or an independent transmission operator. A general analysis of the scientific literature of the different unbundling options has not revealed serious advantages of the full ownership unbundling option, preferred by the European Commission, in comparison with more simple and less costly option for establishing an independent transmission operator.

In the CEE region the countries took different approaches in unbundling electricity and gas companies: if in electricity ownership unbundling was a rather popular approach, in the gas sector only Lithuania has taken the strongest option of unbundling. Existence of a single (or dominant) supplier which in many cases had some shares in the national companies did not allow Governments from the CEE region to choose a more stringent option. Ownership unbundling has significantly increased the gas prices for the consumers in Lithuania: first of all, Gazprom upset with such an inflexible behaviour of the Lithuanian Government left the country with the highest prices in the region, and, second, unbundling and creation of new companies coupled with the reduced demand increased transmission tariffs by 13% and distribution tariffs even up to 30%.

**Key words:** Third Energy Package, unbundling, gas prices

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## INTRODUCTION

The Third EU Energy Package adopted in 2009 is the continuation of the former EU energy policy, aimed at ensuring the right of choice – for the consumers, competitive prices and security of energy supply. EU Law required implementation of the Package into the national legislations during the 2–3 year period. As the implementation required significant changes in national legislations the process in some of the Central and Eastern

European (CEE) countries was not so smooth, delayed by political changes, fierce debates and was not fully completed even in 2013.

The most important requirement of both Directives is structural separation between transmission and other activities (unbundling). The unbundling provisions of the Third Energy Package prevent owners of transmission networks (usually high voltage electricity lines in the electricity sector and high pressure pipelines in the gas sector) from exercising control or any other relevant rights over,

or cross-subsidising, supply, electricity generation or gas production activities and vice versa.

This article discusses the unbundling options as defined by the Third Energy Package, analyses costs and benefits of implementation of various options, revises the process of implementation of the Directives in the Central and Eastern European countries – EU members. Unbundling in the gas sector of Lithuania is also analysed as a special case.

## UNBUNDLING OPTIONS

There is a strong opinion all over the world where liberalisation of electricity and gas markets has taken place that without the effective unbundling of energy network operations (transportation) from other activities for energy generation (production) and energy supply (distribution), there is an inherent risk of discrimination not only in the operation of the network but also in the incentives to adequately invest in the networks by the vertically integrated undertaking.

The European Commission's Second Electricity Directive in 2003 contained a package of unbundling requirements, referred to as *legal unbundling*. In detail, this package includes the following unbundling rules [1]:

**Legal Separation:** the utility's network section had to be transformed into a separate legal entity with separate bookkeeping (*accounting separation*). This requirement is met, for instance, if the network business is organised as an affiliate within a holding structure.

**Management Separation:** the management and staff of the network business were no longer allowed to be active or to have financial interests in the competitive businesses.

**Operational Separation:** this unbundling requirement aimed to increase the independence of the network part with respect to operational decisions. This also included an informational separation between network and supply business.

In 2007, the European Commission criticised the weak development of competition in Europe in its *Sector Inquiry on the energy markets* [2]. The Commission argues that even under the legal unbundling the incumbents – that mostly have remained vertically integrated – have both incentives and the ability to hinder market entry and competition in favour of their own commercial supply interests. The key point is the dependence of supply on the monopolistic networks that may give their owners the possibility of vertical foreclosure. This could take the form of price discrimination, if incumbents are able to charge higher network prices for competitors than for its own affiliates, to squeeze their profit margins and render market entry unattractive. Even though a direct discrimination in network access charges is prohibited, vertically integrated firms may cross-subsidise their competitive business by

shifting costs into their network part. Given imperfect and cost-based regulation, these costs are passed through to all network users. This leads to a distortion of competition, since for incumbents the increased network charges are a pure cost shift.

Another observation of the Commission as for the insufficient unbundling is that there were only weak incentives for network investments, especially across borders. Electricity and gas markets had largely remained national in scope, as network congestions at most borders indicate.

The Third Energy Package provides a revised regulatory framework for promoting the integration of, and increased competition in, EU gas and electricity markets [3]. The package is comprised of separate Directives for gas and electricity (Directive concerning common rules for the internal market in electricity, 2009/72/EC and Directive concerning common rules for the internal market in natural gas, 2009/73/EC), which are required to be implemented by the Member States (MS), and more detailed rules contained in three related regulations (713/2009 – Regulation establishing the Agency for Cooperation of Energy Regulators, 714/2009 – Regulation on conditions for access to the network for cross-border exchanges in electricity, and 715/2009 – Regulation on conditions for access to the natural gas transmission networks).

The basic elements of the Third Energy Package are as follows:

- structural separation between transmission activities and production / supply activities of vertically integrated companies (unbundling),
- stronger powers and independence of national energy regulators,
- a high standard of public service obligations and consumer protection,
- new tools to harmonise market and network operation rules at pan-European level,
- a new institutional framework: Agency for Cooperation of Energy Regulators (ACER).

The most important requirement of both Directives is structural separation between transmission and other activities (unbundling). The unbundling provisions of the Third Directives prevent owners of transmission networks from exercising control or any other relevant rights over, or cross-subsidising, supply, electricity generation or gas production activities and vice versa. Unbundling, according to the Directives, may be achieved in one of the following three ways:

- Full Ownership Unbundling (OU),
- Independent System Operator (ISO),
- Independent Transmission Operator (ITO).

**Full Ownership Unbundling** requires that each vertically integrated energy company separates legal ownership of its

high-voltage (high-pressure for gas) transmission company (the transmission system operator) from its production and supply interests. This option has the following implications:

- Each entity which owns a transmission system acts as a TSO.
- OU can be implemented either by (i) divestiture of either the high-voltage / high-pressure network assets or the production and supply assets of an integrated entity, or (ii) by splitting the shares of an integrated entity into shares of a network entity and shares of the remaining supply and production entity so long as, in each case, the surviving entities fully comply with applicable full OU regulations.
- Member States must ensure that the same person or persons are not entitled to:
  - Directly or indirectly exercise control or any right over (in particular, the power to exercise voting rights or to appoint members of the board or other body legally representing, or the holding of a majority share in) a TSO and at the same time exercise control over a production or supply entity. Therefore, a production or supply entity may only hold an interest in a TSO or a transmission system if it complies with these limitations;
  - Be a member of the managing boards of both a TSO and a production or supply entity;
- Subsidiaries of a vertically integrated entity performing production or supply activities may not have a direct or indirect interest in a TSO. Likewise, a TSO may not have a direct or indirect interest in any subsidiary of a vertically integrated entity performing production or supply activities.
- The principle of non-discrimination between public and private sectors must be respected. Accordingly, Member States must demonstrate that they have complied with the applicable unbundling requirements in order for two separate public bodies to control transmission activities, on the one hand, and production and supply activities, on the other hand.
- Even if a production or supply entity is established in a Member State that has chosen a non-full OU model, that entity cannot control or exercise any rights over an unbundled TSO in a Member State where the full OU model is chosen (i. e. a form of regulatory reciprocity applies).
- Member States that choose to implement ownership unbundling will be granted additional time to apply these provisions to their integrated energy companies. This extension of time recognises that the restructuring required by entities regulated under the full OU model is more extensive than that required under other regulatory models [4].

Under the **Independent Transmission Operator** option, energy companies can maintain their integrated

structures, provided that they meet several conditions, including:

- The TSO must be part of a vertically integrated energy company on the date when the new directives come into force in the applicable Member State;
- The TSO must put in place a supervisory body having decision-making authority over actions that could affect the value of assets allocable to the TSO's shareholders (e. g. the level of the TSO's indebtedness and the amount of dividends distributed to shareholders of the TSO). This supervisory body must include representatives of each of (i) the integrated energy company, (ii) the transmission system operator, and (iii) third-party shareholders;
- The TSO must adopt a compliance programme setting forth measures intended to prevent discriminatory conduct against market participants;
- The Supervisory Body of the TSO must appoint a compliance officer with responsibility for monitoring the implementation of this compliance programme;
- Management staff may not work for the integrated energy company's supply and production company at any time during the period from three years before through four years after being employed by its transmission business; however, a minority of management may have held such positions, provided any such positions were terminated at the latest six months before appointment with the TSO;
- The TSO must seek the approval of the national regulatory authority (NRA) for all commercial and financial agreements to be entered into between the integrated company and the TSO;
- A 10-year network development plan based on the existing and forecasted supply and demand of the transmission network must be submitted annually to the NRA by the TSO. This plan is intended to schedule investments in order to guarantee the adequacy of the transmission network and the security of supply.

Under the **Independent System Operator's** option, a vertically integrated energy company can maintain ownership over its network transmission assets, so long as an unrelated ISO conducts all of the duties of the system operator.

The Third Energy Package requires that specific additional rules be enacted by Member States adopting the ISO model to ensure its effectiveness. These rules include specific organisational measures and measures related to investment in the electricity and natural gas sectors. The ISO model requires implementation of a complex disjunction between (i) the ownership of transmission assets by a former vertically integrated energy company and (ii) the management of such assets by an ISO entity.

## COSTS AND BENEFITS OF VARIOUS UNBUNDLING OPTIONS

The European Commission favours complete ownership unbundling of electricity and gas transmission system operators. Consequently, ownership of transmission assets would have to be transferred to completely independent third parties, which would also exclusively operate these networks. In other words, this is about the separation of all network functions from other activities of the energy supply company; any influence whatsoever of the previously integrated company on the operation of the networks is prohibited. Supply and generation companies would no longer be allowed to exercise any direct or indirect control over the independent network operators [5].

Advocates of the full unbundling of vertically integrated companies in the European electricity and gas markets argued that the new regulatory framework for energy transport assets (electricity grids, gas pipelines and similar infrastructures as gas storage and LNG storage), crucial facilities for the efficient distribution of energy within the European market, would result in competition among power utilities, a drop in energy prices, and would enhance consumer welfare across the European Union [6].

In general, there are two main benefits of ownership unbundling:

- 1) the decrease in the network operator's incentive to discriminate between (otherwise) affiliated and independent generators and / or retail companies,
- 2) the increase in the network operator's incentive to invest in cross-border transmission capacities (the so-called interconnection capacity) [6].

The analysis of the UK experience in having some vertically integrated and other fully unbundled distribution companies suggest that, even with vigilant regulation and clear accounting separation, incumbents who are vertically integrated appear to exhibit an advantage in retaining their market share against the inroads of entrant companies [7]. As the debate about ownership separation still continues in Europe, this lesson of UK experience provides one piece of evidence which suggests that joint ownership of the distribution function may indeed confer competitive advantage on the incumbent.

Opponents to OU argue that there are both economic concerns as well as property issues to be taken into consideration. For example, vertically integrated gas companies can benefit from economies of scale whenever they have to purchase gas from producing countries like Russia or Algeria. OU opponents are also concerned about property rights. They argue that entitling third-party entrants to have access and to use the transmission system of a different company that might have built it or purchased it produces an effect equivalent to that of a physical invasion

of property rights. On the other hand, the full OU option breaks up the company by forcing it to compulsorily sell the transmission assets to another company [8].

The most serious concern opponents of unbundling express regarding the network operator's investment incentive. While incentives to invest in cross-border capacities may increase, incentives to invest in network reliability are likely to decrease. The main reason is that an integrated operator has "double" the incentive to ensure that the network is reliable. In the case of a blackout he not only foregoes transmission revenues, but also the revenues from electricity which cannot be sold. In addition, the specificity of network investments further reduces investment incentives if companies are vertically separated. In fact, investment specificity has been the key argument in favour of vertical integration in the entire transaction cost literature [8].

The opponents of unbundling also maintain that the European energy market is controlled by a few giant companies, and therefore competition will not be largely affected. On the long run small power companies of a member state will be acquired by larger utilities companies of that member state in order to discourage hostile acquisitions by other giant utilities from other Member States.

One of the unbundling opponents [8] also points out that it is an illusion to believe that ownership unbundling will bring any benefits soon. The firms concerned are likely to initiate legal proceedings and pursue these up to the highest courts. Even a share split will not resolve the problem. A full-fledged ownership unbundling requirement with a forced sale of either networks or the non-network assets and activities is likely to result in long legal battles before ownership unbundling may eventually take place. In the meantime, however, there will be significant legal uncertainty with the resulting negative impacts on investment incentives for both.

The same OU opponent thinks, that regarding the ISO option, one should note that a "deep" ISO is basically associated with similar risks to ownership unbundling. In addition, an ISO may, in the worst case, help to facilitate collusion. Hence, mandating an ISO is not likely to be efficient either [8].

Empirical evidences from the U. S. and Latin America where some companies experienced an ownership unbundling have shown no preference to the full ownership unbundling in comparison with the legal unbundling only. Analysis of the liberalisation options implemented in Latin America has shown that full ownership unbundling comes along with high costs in restructuring periods, whereas the third party access (with softer requirements for unbundling) would avoid the costs of unbundling but is expected to have a similar potential of cost reduction if tight supervision is exerted by a regulatory authority [9].



One of the results of ownership unbundling should be increased competition and consequently lower prices to consumers. Empirical analysis of the gas systems liberalisation in 18 EU countries over 19 years with a number of static as well as dynamic estimators revealed no evidence for a natural gas price-decreasing effect of ownership unbundling [10]. However, the breaking-up of formerly vertically integrated TSOs with at least introducing more modest legal unbundling has resulted in lower end-user prices. Furthermore, the third-party access and privatisation showed significant influence with the latter leading to higher price levels. Their effect even doubles in the long run. From a policy point of view, these results [10] do not support a further separation of the different stages of the natural gas value chain. On the contrary, as countries which at least legally separated transmission networks already seem to have reaped the economic benefits, a further tightening of unbundling rules for gas TSOs does not seem to be economically reasonable.

#### IMPLEMENTATION OF DIFFERENT UNBUNDLING OPTIONS IN THE CEE REGION

CEE countries, despite their common historical past, had a very different speed and depth of reforms in their energy sectors. For example, Hungary restructured vertically integrated monopolies in the electricity and gas sectors and privatised most of distribution and generation assets as early as in mid-nineties, at the same time Latvia and Estonia kept electricity companies in the state ownership, though restructured in line with the requirements of the first and second Electricity Directives. Czech Republic, on its turn, has created the national champion ČEZ, which acquired some generation and distribution assets in the region, but the neighbouring Slovakia has sold all distribution and generation assets to the foreign investors.

So, countries from the region have chosen rather different approaches to unbundle the transmission activity from other activities. The selection of the best option and

the necessary legal amendments took some time and the unbundling process was pending even in 2013. After the legal changes and appointment of the system operator (independent TSO, ITO or ISO), according to the Third Energy Package, it needs to receive a certificate from the NRA, and the procedure for receiving a certificate is as follows: the draft NRA decision to issue a certificate is further sent to the European Commission (EC) for its opinion. With a positive response from the EC the national regulatory authority finally issues a certificate. Consequently the certification process takes some time and was not finished yet in several CEE countries in 2013.

The status of the transmission system operators at the beginning of implementation of the Third Energy Package is shown in Table 1.

Electricity TSOs are mostly in the state hands, when those of the gas are fully or partly privatised. In the gas sector there are less of ownership unbundled TSOs. One may expect that unbundling in the gas sector with the prevailing private ownership will be more complicated and the unbundling models will be less demanding (not full ownership unbundling).

Unbundling options taken by the Governments of the MS in the CEE region are shown in the following table (Table 2). One may notice that in some countries the unbundling process was not over even in 2013, e. g. Poland was still choosing an unbundling model.

One may see that in the electricity sector the main unbundling option was full ownership unbundling (though in some cases it looked rather formal as the TSO was owned by the state as also distribution and generation assets and only different ministries were controlling different enterprises), only Latvia opted for ISO and Bulgaria with Hungary for the ITO option. In the gas sector one may notice a totally different picture – only Lithuania opted for a full ownership unbundling (we will analyse this case separately later), the main option was ITO. Poland has a problem with a transit pipeline where the Gaz-System acts as ISO and in the rest of the network as a TSO, so the final decision is pending still.

Table 1. Unbundling and ownership of the gas and electricity TSOs in the CEE countries in 2010 [11]

	Electricity TSO		Gas TSO	
	Ownership unbundled	Private ownership, %	Ownership unbundled	Private ownership, %
Bulgaria	N	0	N	0
Czech Republic	Y	0	N	100
Estonia	N	0	N	100
Hungary	N	100 <sup>1</sup>	Y	100
Latvia	N	0	N	97
Lithuania	N	36	N	82
Poland	Y	0	Y	0
Romania	Y	74	Y	25
Slovakia	Y	0	N	49

<sup>1</sup> Government has a golden share.

Table 2. Unbundling options taken by the MS in the CEE region (based on the annual reports of the NRAs)

	Country	Electricity TSO		Gas TSO	
		Company	Unbundling	Company	Unbundling
1.	Bulgaria	ESO	ITO	Bulgartransgas EAD	ITO
2.	Czech Republic	ČEPS	OU	NET4GAS	ITO
3.	Estonia	Elering	OU <sup>2</sup>	Derogation	
4.	Hungary	Mavir	ITO	FGSZ	ITO
5.	Lithuania	Litgrid	OU <sup>1</sup>	Ambergrid	OU
6.	Latvia	AST	ISO	Derogation	
7.	Poland	PSE Operator	OU	Gaz-System	OU or ISO
8.	Slovakia	SEPS	OU	Eustream	ITO

<sup>1</sup> Government has a golden share.

<sup>2</sup> TSO as the rest of activities (generation, distribution and public supply) are state owned but controlled by different ministries.

Different approaches in the gas and electricity sectors may be explained by different situation in the sectors. In the electricity sector in many countries there were legally or by ownership unbundled TSOs, there was a real competition among different producers as also among suppliers. In the gas sector in most cases there was only one external gas supplier – Gazprom (or it was a dominant supplier), so there was a lack of competition and full ownership unbundling might cause some problems, especially if Gazprom was owning some part of shares in transportation and supply (we will later analyse how this issue was discussed and solved in Lithuania).

## UNBUNDLING OF THE GAS TSO IN LITHUANIA

Government of Lithuania has decided to use the ownership unbundling approach for the natural gas vertically integrated company Lietuvos Dujos, which is privatised and owned by the two international giants Gazprom and E. ON with the small part of the shares (17%) belonging to the state, the Government proposed amendments to the Natural Gas Law, the goals of the amendments were the following:

- To ensure the sufficient level of gas supply reliability;
- Effectively unbundle the transmission activities and supply activities, ensure security of supply and solidarity in the gas sector;
- Strengthen protection of consumer rights and legitimate interests;
- Expand the functions of regulatory institutions of national energy sector, guarantee their independence, harmonize activities, and facilitate cooperation with the European energy sector's regulatory institutions at the regional and EU level;
- Promote the cooperation of the EU transmission system's operators at the regional and EU level [12].

The proposed gas sector's model requires the full ownership unbundling of the gas transmission networks

from production and supply. The same person cannot be a member of a board, administrative council, or any other body legally representing the undertaking carrying out any function of production or supply, or a transmission system operator, or a transmission system. The implementation of the Law should be supervised by the NRA, it has the right to apply fines to the Law infringing subjects (up to 10% of the company's annual turnover), and (or) to appoint an independent system operator which would carry out its functions until the infringing company complies with the requirements set by the Law.

Management of the vertically integrated company Lietuvos Dujos and its shareholders Gazprom and E.ON Ruhrgas International GmbH criticised the above mentioned provisions of the Law stressing that the model of implementation of the Directive 2009/73/EC will have negative effects on a stable operation of the company: ensuring the security and reliability of the gas supply, financial capacity of company to undertake new infrastructure projects and market development. It will lower the investors' interests and will increase administrative costs and natural gas prices. The key shareholders of Lietuvos Dujos claimed that during the last five years they have invested almost 200 million euros (development of new infrastructure, increase in capacity of international links, and projects' implementation according to the National Energy Strategy). Moreover, international corporate management standards and structural changes have been introduced in the company, and accounting and operational unbundling of various activities were implemented [13].

The main two shareholders of Lietuvos Dujos, E.ON and Gazprom, owning 76% of the company's shares, in their letter to the Lithuanian Government have stressed that "Lithuania did not properly review and assess the impact of all 3 alternative solutions available under the Third EU Gas Directive plus the derogation option. Lithuania has not considered the proportionality of its policy choices, in the light of the adverse impact they may have on Lietuvos

Dujos and its shareholders, nor has it consulted with affected parties. Art. 49 of the Directive enables Lithuania as an isolated market to derogate from the provisions of OU as long as it is an isolated market with only one gas supplier. This solution would be an appropriate way for Lithuania to implement the Directive and at the same time fulfil its obligations towards the shareholders of Lietuvos Dujos in view of their protected investments. Moreover, it would give Lietuvos Dujos, a still fully integrated company, enough time to prepare for later unbundling steps. An overhasty implementation of OU which deeply affects all processes and structures of Lietuvos Dujos through fully separating the transmission business from the rest of the company could cause disruptions of gas supply. This derogation solution was chosen by other countries like, e. g. Latvia and Finland” [13].

A similar view was expressed by the well-known academic Jonathan Stern, Director of Gas Research of the Oxford Institute for Energy Studies, who claimed that ownership unbundling will not change anything because Lithuania does not have alternative natural gas sources and nationalisation of transmission networks might raise the price of natural gas to the final consumers because main shareholders’ losses will have to be compensated. Such actions of the Government, according to Stern, might raise dissatisfaction of the only current supplier Gazprom [14].

On the other hand, the Ministry of Energy, proposing the changes in the gas sector legislation, claimed that the implementation of the model of ownership unbundling in the long run should have positive effects, provided that a liquefied natural gas (LNG) terminal is built in Lithuania.

It would increase the energy security of the Republic of Lithuania and would lessen the dependence on the sole supplier of natural gas. The Ministry declared that, if the ownership unbundling model is not implemented, the state could not transmit the gas brought to the Klaipėda LNG terminal to consumers because it does not control the main pipelines for transmission of natural gas, thus ownership unbundling and construction of the LNG terminal are related and supplementary measures. Besides the LNG terminal and ownership unbundling, other steps for liberalising the natural gas market have to be taken: development of natural gas market, construction of the pipeline Klaipėda–Jurbarkas (thus creating the circle of the main pipelines for natural gas transmission in Lithuania), and building natural gas network links with Poland [15].

The costs of ownership unbundling have already increased the natural gas prices to final consumers in Lithuania. First of all, the increase was caused by the Gazprom’s position to reduce in 2011 gas export’s prices to most of the importers in Europe, including Latvia and Estonia, but not to Lithuania. The reason was the Lithuania’s declaration to apply the strongest measure defined by the Third Energy Package – the ownership unbundling in the gas sector. Therefore, natural gas wholesale prices since then are the highest in the region (Figure) [16].

Even more, Gazprom has complained that the unbundling requirement to leave gas transportation business violates the terms of the 2004 privatisation deal for Lietuvos Dujos. In 2012 it launched arbitration proceedings against Lithuania’s plans to strip the Russian gas giant of its pipeline ownership.

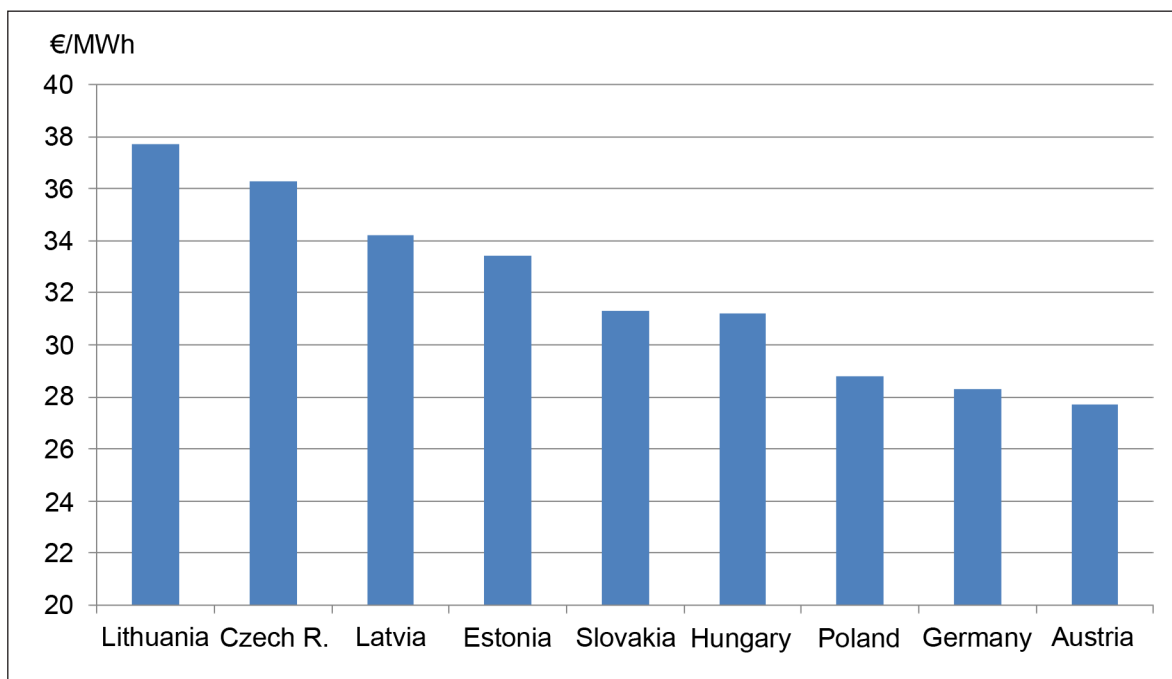


Figure. Natural gas wholesale prices in the CEE region, July 2013

In 2013 the gas main was separated from the mother company Lietuvos Dujos and a new company called Amber Grid was created, it acts as a transmission system operator. Unbundling is not completed yet; owners of the supplier and distributor Lietuvos Dujos and the TSO Amber Grid are the same. Nevertheless, due to the separation gas transmission prices since January 1, 2014 were increased by 13% and gas distribution prices were raised for different consumer groups from 20 to 30 per cent! [17]. Due to decreasing oil and oil products prices (determining the gas import price by the set formula) and weaker dollar (import prices are calculated in dollars) only gas prices to the final consumers did not increase.

A similar signal has been sent from Estonia, where the Estonian Ministry of Economy and NRA undertook an economic assessment of unbundling the vertically integrated undertaking Eesti Gaas into two companies, and it appeared that separation of the infrastructure from supply would raise the natural gas prices for Estonian consumers by 17 per cent [15].

## CONCLUSIONS

The Third Energy Package provides a revised regulatory framework for promoting the integration of, and increased competition in, EU gas and electricity markets. The most important requirement of the Package is structural separation between transmission and other activities (unbundling). The unbundling provisions of the Third Energy Package prevent owners of transmission networks (usually high voltage electricity lines in the electricity sector and high pressure pipelines in the gas sector) from exercising control or any other relevant rights over, or cross-subsidising, supply, electricity generation or gas production activities and vice versa.

A general analysis of the scientific literature of different unbundling options has not revealed serious advantages of the full ownership unbundling option, preferred by the European Commission, in comparison with more simple and less costly option for establishing an independent transmission operator. Countries which at least legally separated transmission networks already seem to have reaped the economic benefits, a further tightening of unbundling rules for gas TSOs does not seem to be economically reasonable.

Countries from the CEE region when implementing the Third Energy Package have taken different unbundling options. In the electricity sector the main unbundling option was full ownership unbundling (though in some cases it looked rather formal as the TSO was owned by the state as also distribution and generation assets and only different ministries were controlling different enterprises), only Latvia opted for ISO and Bulgaria with Hungary for

the ITO option. In the gas sector one may see a totally different picture – only Lithuania opted for a full ownership unbundling, the main option was ITO.

The Government of Lithuania has decided to use the ownership unbundling approach for the natural gas vertically integrated company Lietuvos Dujos. The private shareholders of the vertically integrated company LD criticised the approach taken by the Government stressing that the ownership unbundling will have negative effects on a stable operation of the company: ensuring the security and reliability of the gas supply, financial capacity of the company to undertake new infrastructure projects and market development. A similar view was expressed by the well-known academic Jonathan Stern, Director of Gas Research of the Oxford Institute for Energy Studies, who claimed that ownership unbundling will not change anything because Lithuania does not have alternative natural gas sources and nationalisation of transmission networks might raise the price of natural gas to the final consumers because main shareholders' losses will have to be compensated.

Unbundling was not completed in 2013, owners of the supplier and distributor Lietuvos Dujos and the TSO Amber Grid were still the same. Nevertheless, due to the separation and reduced demand gas transmission prices since January 1, 2014 were increased by 13% and gas distribution prices were raised for different consumer groups from 20 to 30 per cent.

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## DUJŲ IR ELEKTROS SEKTORIŲ SKIRTINGŲ ATSKYRIMO BŪDŲ ĮDIEGIMAS VIDURIO IR RYTŲ EUROPOS ŠALYSE – ES NARĖSE

### Santrauka

Trečiasis ES energetikos paketas sukuria teisinius pagrindus, būtinius bendrajai konkurencinei ES elektros ir dujų rinkai sukurti. Svarbiausias šio paketo reikalavimas – atskirti perdavimą nuo kitų veiklų. Trečiuoju paketu reikalaujama, kad perdavimo tinklų savininkai (aukštos įtampos elektros tinklų ar aukšto slėgio dujotiekių) negalėtų kontroliuoti ar kryžmiškai subsidijuoti gamybos ar tiekimo veiklų ir atvirkščiai, kad jie nebūtų kontroliuojami tų veiklų savininkų. Mokslinės literatūros analizė neparodė, kad visiškas nuosavybės atskyrimas, kurį rekomenduoja Europos Komisija, yra pranašesnis už paprastesnį ir mažiau išlaidų reikalaujantį

nepriklausomo tinklų operatoriaus įsteigimo variantą. Atrodo, kad šalys bent teisiškai atskyrusios perdavimo tinklus, gavo pakankamą ekonominę naudą, ir griežtesnis atskyrimas nėra ekonomiškai pagrįstas.

Vidurio ir Rytų Europos šalys, įgyvendindamos Trečiąją ES energetikos paketą, pasirinko skirtingus perdavimo atskyrimo variantus. Elektros energetikoje pagrindinis atskyrimo variantas – visiškas nuosavybės atskyrimas (nors kai kuriais atvejais toks atskyrimas gana formalus, nes tiek perdavimo tinklai, tiek ir skirstymo bei gamybos aktyvai priklauso valstybei, tik juos valdo skirtingos ministerijos). Tik Latvija pasirinko nepriklausomo sistemos operatoriaus, o Bulgarija su Vengrija – nepriklausomo tinklų operatoriaus variantą. Gamtinių dujų sektoriuje visai kitoks vaizdas – tik Lietuva pasirinko visiškos nuosavybės atskyrimo variantą, kitos šalys daugiausiai rinkosi nepriklausomo tinklų operatoriaus būdą.

Lietuvos Vyriausybė nusprendė skaidyti vertikaliai integruotą gamtinių dujų įmonę „Lietuvos dujos“, taikydama visiško nuosavybės atskyrimo variantą. Privačios „Lietuvos dujos“ kompanijos pagrindiniai savininkai kritikavo tokį Vyriausybės pasirinkimą, pabrėždami, kad visiškas nuosavybės atskyrimas turės neigiamos įtakos stabiliam kompanijos darbui: tai atsilieps dujų tiekimo patikimumui, įmonės finansiniam pajėgumui vykdyti naujus infrastruktūros plėtros projektus ir rinkos plėtrai. Panašią nuomonę išreiškė ir žinomas mokslininkas Jonathanas Sternas, Oksfordo Energetikos studijų instituto direktorius, pareikšdamas, kad nuosavybės atskyrimas nieko nepakeis, kadangi Lietuva neturi alternatyvių dujų tiekimo šaltinių, o dujų perdavimo tinklų nacionalizacija gali padidinti kainas galutiniams vartotojams, nes pagrindinių akcininkų nuostoliai turės būti kompensuoti.

AB „Lietuvos dujos“ skaidymas nebuvo baigtas dar ir 2013 m., atskirtos perdavimo tinklų įmonės „Amber grid“ ir „Lietuvos dujos“ savininkai buvo tie patys. Tačiau dėl atskyrimo bei sumažėjusių poreikių dujų perdavimo tarifai nuo 2013 m. sausio 1 d. padidėjo 13 %, o dujų skirstymo tarifai įvairioms vartotojų grupėms išaugo nuo 20 iki 30 %.

**Raktažodžiai:** Trečiasis energetikos paketas, veiklų atskyrimas, dujų kainos

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**ВНЕДРЕНИЕ РАЗЛИЧНЫХ МЕТОДОВ  
РАЗДЕЛЕНИЯ ДЕЯТЕЛЬНОСТИ В  
ЭЛЕКТРОЭНЕРГЕТИКЕ И ГАЗОВОМ СЕКТОРЕ  
СТРАН ЦЕНТРАЛЬНОЙ И ВОСТОЧНОЙ  
ЕВРОПЫ – ЧЛЕНОВ ЕС**

*Резюме*

Третий энергетический пакет ЕС обеспечил юридическую основу необходимую для создания общего конкурентного рынка ЕС по электроэнергии и газу. Самое важное требование этого пакета – отделение передачи от других деятельностей. Требуется, чтобы собственники передающих сетей (высоковольтных линий электропередачи и магистральных газовых сетей) не могли бы контролировать или применять перекрестные субсидии к производству или поставкам энергии (газа) и наоборот, чтобы они не контролировались собственниками этих деятельностей. Анализ научной литературы показал, что полное разделение собственности, которое рекомендует Европейская Комиссия, не имеет преимуществ перед более простым и менее затратным методом внедрения независимого оператора сети. Кажется, что страны, которые хотя бы юридически разделили деятельности, уже получили достаточную экономическую выгоду и более глубокое разделение экономически нецелесообразно.

Страны Центральной и Восточной Европы, внедряя Третий пакет, выбрали разные варианты разделения деятельностей. В электроэнергетике главный выбранный вариант – полное разделение собственности (хотя в некоторых случаях такое разделение достаточно формальное, так как все

компании государственные, только их контролируют разные министерства), только Латвия выбрала вариант независимого системного оператора, а Венгрия и Болгария – независимого оператора сети. В то же время в газовом секторе картина совсем другая – только Литва выбрала вариант полное разделение собственности, а большинство других стран – независимого оператора сети.

Правительство Литвы решило разделить вертикально интегрированную монополию „Летувос дуес“, применяя метод полное разделение собственности. Главные акционеры частной компании „Летувос дуес“ критиковали такое решение правительства, подчеркивая, что оно будет иметь отрицательное влияние на деятельность компании: это отразится на надежность снабжения, на финансовый потенциал предприятия осуществить инфраструктурные проекты, на развитие рынка. Схожее мнение выразил известный ученый Джонатан Стерн, директор Оксфордского института студий в энергетике, который заявил, что разделение собственности ничего не даст, потому что у Литвы нет альтернативных источников снабжения газа, а национализация магистральных сетей может повысить цены газа для конечных потребителей, так как потери главных акционеров должны быть компенсированы.

Разделение „Летувос дуес“ не было ещё закончено и в 2013 году, собственники отделенного системного оператора Амбер грид были те же самые, что и у „Летувос дуес“. Но уже после этого разделения тарифы на передачу с 1 января 2014 г. возросли на 13 %, а на распределение – от 20 до 30 %, в зависимости от группы потребителей.

**Ключевые слова:** Третий энергетический пакет ЕС, разделение деятельности, цена газа