

# **National Report of the Energy Regulatory Office on the Electricity and Gas Industries in the Czech Republic for 2012**

July 2013

## Most frequent abbreviations

| Czech          | English |   |
|----------------|---------|---|
| ČR             | CR      | Czech Republic  |
| ERÚ            | ERO     | Energy Regulatory Office  |
| MPO            | MIT     | Ministry of Industry and Trade of the Czech Republic  |
| ČEPS           | ČEPS    | The Czech Transmission System Operator (electricity)  |
| OTE            | OTE     | The Market Operator   |
| PXE            | PXE     | Power Exchange Central Europe, a.s.   |
| EEX            | EEX     | EEX Leipzig Energy Exchange   |
| SEI            | SEI     | State Energy Inspectorate   |
| ÚOHS           | ÚOHS    | Office for the Protection of Competition  |
| PPS            | TSO     | Transmission System Operator  |
| PDS            | DSO     | Distribution System Operator  |
| HPS            | BTS     | Border Transfer Station   |
| MC             | MC      | Market Coupling   |
| APG            | APG     | The Austrian TSO (electricity)  |
| CEER           | CEER    | Council of European Energy Regulators   |
| ACER           | ACER    | Agency for Cooperation of Energy Regulators   |
| ENTSO          | ENTSO   | European Networks of TSOs   |
| CEE            | CEE     | The Central and Eastern Europe region   |
| EU             | EU      | European Union  |
| SAIDI          | SAIDI   | System Average Interruption Duration Index<br>(minutes/year/customer)   |
| SAIFI          | SAIFI   | System Average Interruption Frequency Index<br>(interruptions/year/customer)  |
| CAIDI          | CAIDI   | Customer Average Interruption Duration Index<br>(minutes/interruptions)   |
| VVN            | EHV     | Extra high voltage  |
| VN             | HV      | High voltage  |
| NN             | LV      | Low voltage   |
| Third package, |         | also the third energy package or the third liberalisation package,<br>is a set of five legislative acts adopted under the Czech<br>presidency of the European Council |
| REMIT          |         | Regulation on integrity and transparency of wholesale energy<br>market  |
| OZE            | RES     | Renewable energy sources  |

## Table of Contents

|       |   |    |
|-------|---|----|
| 1     | Introduction .....  | 3  |
| 2     | Main developments in the electricity and gas markets .....  | 4  |
| 3     | The electricity market.....   | 5  |
| 3.1   | Network regulation .....  | 6  |
| 3.1.1 | Unbundling.....   | 6  |
| 3.1.2 | Technical functioning.....  | 6  |
| 3.1.3 | Network tariffs for connection and access .....   | 7  |
| 3.1.4 | Cross-border issues .....   | 8  |
| 3.1.5 | Compliance.....   | 14 |
| 3.2   | Promoting competition .....   | 15 |
| 3.2.1 | Wholesale markets .....   | 15 |
| 3.2.2 | Retail markets.....   | 17 |
| 3.2.3 | Recommendations on supply prices, investigations and measures to promote effective competition..... | 18 |
| 4     | The gas market .....  | 20 |
| 4.1   | Network regulation .....  | 20 |
| 4.1.1 | Unbundling.....   | 20 |
| 4.1.2 | Technical functioning.....  | 20 |
| 4.1.3 | Network and LNG tariffs for connection and access .....   | 22 |
| 4.1.4 | Cross-border issues .....   | 24 |
| 4.1.5 | Compliance.....   | 26 |
| 4.2   | Promoting competition .....   | 27 |
| 4.2.1 | Wholesale markets .....   | 27 |
| 4.2.2 | Retail market .....   | 27 |
| 4.2.3 | Recommendations on supply prices, investigations and measures to promote effective competition..... | 32 |
| 5     | Consumer protection and dispute settlement in electricity and gas .....                             | 34 |
| 5.1   | Consumer protection .....   | 34 |
| 5.2   | Dispute settlement .....  | 35 |

# 1 Introduction

For the ninth time, the Czech Republic is presenting, through the Energy Regulatory Office, its National Report on the Electricity and Gas Industries, thereby meeting its reporting and notification obligation as set out in the applicable Directives and Regulations.

In 2012, the Energy Regulatory Office's activities continued to be based on the respective amendment to Act No 458/2000 on Conditions for Business and State Administration in the Energy Industries and on Changes to Certain Laws (the Energy Act), in which the Czech Republic had implemented the relevant provisions of the third energy package. The amendment has boosted the national regulator's powers of supervision over the electricity and gas markets' functioning and transferred inspection competences from the State Energy Inspectorate to the Energy Regulatory Office (ERO). The amendment also contains a number of new provisions important for the protection of customers' rights, in particular as regards the execution of agreements on supply terms and conditions. Compared with the preceding periods, a fundamental change in the ERO's work was therefore the great emphasis it placed on protecting consumers' and customers' rights. A new Consumer Protection Unit had been set up earlier; in 2012, it handled a large number of suggestions and complaints.

With a view to boosting consumer protection and fair practices and to enhancing general confidence in the energy market, the ERO issued a Code of Energy Traders' Ethics. It is a set of fundamental rules for electricity and gas traders' ethical and professional conduct in their provision of electricity and gas supply and the related services.

Reflecting the obligations under Directives 2009/72/EC and 2009/73/EC, the amendment to the Energy Act has markedly reinforced the ERO's powers, in particular those of supervision, oversight and penalisation, and remedial measures in cases of violations of legal regulations, and in the enforcement of sanctions.

Activities related to the implementation of Regulation (EU) No 1227/2011 of the European Parliament and of the Council (REMIT), the objective of which is to ensure functioning competition on wholesale energy markets at the national level, took off and began taking shape at the ERO in 2012. The ERO consistently coordinates this procedure with the Agency for Cooperation of Energy Regulators (ACER).

The year's highlights included the successful completion of the project for the integration of day-ahead electricity markets between the Czech Republic, Slovakia and Hungary and the completion of the GAZELLE gas pipeline. The Czech Republic and two partners are currently working to extend the trilateral day-ahead market coupling to include Poland and Romania; by the date of the completion of the EU's internal electricity market, our region will be integrated with the NWE and CWE markets on the basis of a shared capacity allocation method. The Czech Republic was compelled to pay considerable attention to the issue of unplanned and loop flows that pose risk to the safety of the grid and complicate the process of single market formation. The Czech Republic also actively joined discussions on the new form of the regional gas market.

In 2012, the ERO issued the electricity transmission system operator, ČEPS, a.s., with an independence certificate that states that ČEPS a.s. is an entity fully unbundled in terms of ownership. No decision was passed in regard to the application filed by the gas transmission system operator, NET4GAS, s.r.o., which opted for the model of an independent operator (ITO), before the end of 2012. With regard to the planned sale of NET4GAS, s.r.o., the ERO

took the required steps to ensure the company's transparency with a view to putting in place a level playing field for all the potential investors.

The ERO also participated in the development of Act No 165/2012 on promoted energy sources, for which it prepared the implementing regulations.

## **2 Main developments in the electricity and gas markets**

The open electricity market continued in its dynamic development in 2012. Its characteristic feature was an only slight increase in the number of supplier switches, but a new aspect was customers' switching from supplier to supplier showing no discernible trend, whereas in the preceding years only the vertically integrated incumbents experienced customer attrition. The integration of the wholesale electricity markets in Central Europe (CEE) made significant progress. The project for the coupling of the day-ahead electricity markets between the Czech Republic, Slovakia and Hungary was successfully completed (Czech-Slovak-Hungarian Market Coupling, hereinafter also referred to as CZ-SK-HU MC). This project is an expansion of the successful coupling between the Czech and Slovak day-ahead markets and was supported by the national regulators with a view to furthering the integration of the European electricity market. Intensive work to tackle specific technical details was under way for the whole year. On the basis of positive results of tests, market coupling was launched on 11 September 2012 for supply on the trading day 12 September 2012. As of 31 December 2012, the then existing system of the payment of support for renewable energy sources was discontinued. In the system, the payment points were the various operators of regional distribution systems. (As of 2013, the market operator, OTE, a.s., is a single payment point). ČEPS, a.s. was granted an independence certificate.

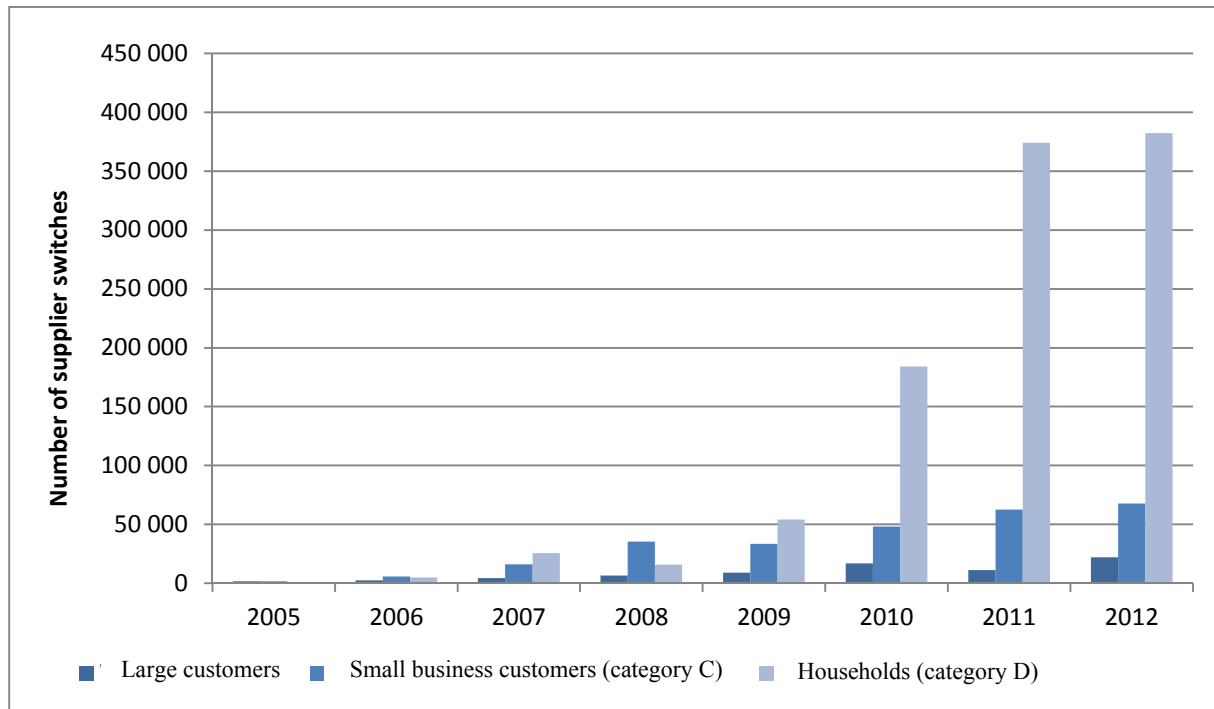
In 2012, the gas market was influenced by similar factors as the electricity market. The gas market is fully liberalised and makes it possible for customers to choose their supplier. A slight decline in the number of supplier switches was registered in 2012. However, a new trend emerged: customers migrating between the various suppliers, and not only from the vertically integrated incumbents to new suppliers, as had been the case before, but also between new suppliers and also from these new suppliers back to the incumbent traders. Through their business policies, all suppliers create place a broad range of services on the market, from which customers can pick the offer that best meets their requirements. In connection with these changes, the year saw an increased occurrence of fixed-term gas supply agreements that can help to ensure lower prices for the customers but, on the other hand, make it more difficult for them to migrate to a different supplier without penalties for early contract termination. From the perspective of international relations, a major event was the completion of the GAZELLE gas pipeline, which connects to the OPAL gas pipeline near the village of Brandov and serves for supplying the south of Germany and the east of France via the Waidhaus border transfer station. The first quarter of 2012 saw the completion of the last stage of the work on the STORK gas pipeline, which will interconnect the Czech and Polish gas transmission systems near Český Těšín. October 2012 saw an extension of the GATRAC capacity platform to include the Lanžhot transfer point on the national border between the Czech Republic and Slovakia.

From the perspective of meeting the requirements of European legislation, a highlight of 2012 was an application for ITO certification received from NET4GAS, s.r.o., on which the ERO continued to decide throughout 2012.

### 3 The electricity market

Following a surge in supplier switching in 2010 and 2011, 2012 saw stagnation; nevertheless, the fully opened market continues to result in a slight increase in the number of supplier switches. According to the data recorded by the market operator, OTE, a.s., for households there were 8,000 switches more than in the preceding year (382,000 v 374,000 in 2011). In all, almost 472,000 customers changed their electricity supplier in 2012 (the figure was approximately 450,000 in 2011). Developments in the number of electricity supplier switches can be seen in Chart 1.

**Chart 1 Annual electricity supplier switching in the main customer categories**



Source: OTE, a.s.

On its website, the Office sought to provide all the information that could help to serve for a qualified selection of suppliers. It provided information concerning the customers' options and the procedure in electricity supplier switching, structure of the offered services, and the suppliers' prices using an interactive ready reckoner for electricity prices, and also information about the feedback received by the Office from the liberalised market. In 2012, it repeatedly published warnings against door-to-door salesmen and provided information about ongoing inquiries at certain traders. During 2012, the above ready reckoner was not only one of the most visited applications on the Office's website; traders' increased interest in this application was also registered. While in the preceding years most of the electricity supplier switches were attributable to customers migrating from incumbent suppliers of vertically integrated companies to alternative suppliers, in 2012 the market was so liquid that it was no longer possible to identify the main direction of supplier switches. In general, customers followed the lowest price.

Electricity supply prices for low-demand customers connected to the LV level were generally negatively affected by the amount of subsidies paid to renewable energy sources in 2012.

At the LV level, the same range of tariffs, including the conditions for awarding them, as in 2011 was maintained for small business customers (category C) and households (category D) for 2012.

Suppliers usually adjusted their offering prices of electrical energy once a year, i.e. as from 1 January of the new calendar year. Some suppliers also offered a product where the offering price of energy depended on electricity prices at energy exchanges during the year for small customers as well, or offered a better price when the customer entered into a contract for both electricity and gas supply with the trader.

### **3.1 Network regulation**

#### **3.1.1 Unbundling**

The amendment to the Energy Act, through which the Czech Republic had earlier implemented Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009, concerning common rules for the internal market in electricity, contains important provisions on unbundling. It also has a fundamental importance not only from the perspective of the statutory provisions on the unbundling itself of the electricity transmission system operator but also in terms of the ERO's extended competences in supervision, inspection and penalisation for violations of the rules of unbundling.

In the electricity industry, the amendment to the Energy Act focuses on the transmission system operator's ownership unbundling and certification, and the related new duties of state administration authorities.

The electricity transmission system operator, ČEPS, a.s., was fully unbundled from electrical energy producers and distributors as early as 3 September 2009, which the ERO confirmed last year by granting the company an independence certificate.

In respect of the unbundling of distribution system operators, Article 26 of Directive 2009/72/EC had been implemented through the amendment to the Energy Act in the preceding period, specifically through Section 25a and Section 11 (1) (m) of the Energy Act.

#### **3.1.2 Technical functioning**

In 2012, new Act No. 165/2012 on promoted energy sources and amendments to certain laws came into force, with some of its provisions becoming effective as of 1 January 2013. This will result in a change of the system of support payments.

Until now, support was paid by the respective distribution system operator, while under the new system support in the form of green premiums for electricity will be disbursed by OTE, a.s. and in the form of feed-in tariffs by the obligatorily purchasing trader. All generators of electricity from renewable sources, secondary sources, and high efficiency combined heat and power generation, who are beneficiaries of the support, were therefore transferred to OTE's system at the end of 2012.

The promulgation of the new law and the change of the system necessitated the preparation of a new regulatory methodology, which was set out in an amendment to public notice no. 140/2009 on regulatory methods in the energy industries and procedures for price control, as amended.

The rights and obligations of producers, including renewable electricity producers, are laid down in Section 23 of the Energy Act. Under Section 23 (1) (a), every producer has the right to connect its installation to the electricity grid subject to the connection conditions and commercial conditions. Under Section 23 (1) (b) and (c) of the Energy Act, producers also have the right to supply electricity to other market participants, to other countries, and for their own consumption.

The right of newly connected producers of energy from renewable sources to receive support is laid down in Act No. 165/2012 on promoted energy sources (in effect as of 2013), which specifies the form of support for each particular type of installation and, if applicable, for the size of installed capacity.

The responsibility for balancing energy rests with ČEPS, a.s., which ensures the quality and reliability of electricity supply at the level of the transmission system by means of system services. The funds to pay for these services are provided by final customers through a regulated contribution contained in the price for the quantity of electricity consumed.

For the first time ever in the area of electricity supply quality, in 2012 the ERO set the quality indicators and their parameters for distribution for the following regulated year. They are based on the ERO's report on the methodology for the third regulatory period, which introduced the so-called incentive-based quality regulation, the purpose of which is to set the required level of the quality of provided services in relation to their price.

Incentive-based quality regulation has been put in place in order to reduce the number and duration of disruptions in electricity distribution. The key issue is the category of planned interruptions, which are not restricted in legislation in any way and are the most frequent subject of customers' complaints. Last but not least, the objective of this regulation is also to achieve better results of comparisons of the quality levels with the other EU member states.

The ERO also focused on monitoring compliance with the standards of electricity supply quality set out in public notice no. 540/2005 on the quality of electricity supply and related services in the electricity industry. The results of this monitoring will be used for amending this public notice to tighten the prescribed limits or to introduce more targeted standards and, above all, for introducing incentive-based quality regulation.

### **3.1.3 Network tariffs for connection and access**

Under the Energy Act and public notice no. 140/2009 on regulatory methods in the energy industries and procedures for price control, the Office sets the charges for regulated services related to electricity supply on an annual basis. These charges are heavily influenced mainly by the level of overall consumption, the price of electrical energy for covering network losses, the agreed value of booked capacity, inflation factors, and, last but not least, the rapid increase in renewable electricity generation, primarily in photovoltaic plants, but also in biogas and biomass-firing capacities.

Charges for network services are composed of charges for transmission and distribution services, which are further broken down to the charge for network use per unit of electricity taken and the charge for booked network capacity, which is set as a fixed monthly charge.

The charge for using transmission system networks is influenced by losses in the transmission system and the price of energy for covering these losses. The expected level of losses almost did not change year-on-year and so the main factor is the increase in the price of energy for covering losses, which caused an increase in the charge for the use of transmission system networks by 7.3 per cent. The charge for capacity booking in the transmission networks rose by 1.3 per cent year-on-year, mainly due to adjustments to proceeds from auctions on cross-border interconnection points of the transmission system.

As in transmission, the charge for network use in distribution serves for covering network losses. Its level for 2012 was also adversely influenced by the increase in the prices of electrical energy, but this increase was fully offset by the abolishment of the contribution to distributed generation. At the level of EHV networks, the price dropped by 14.7 per cent year-on-year, and at the HV level it declined by 4.2 per cent compared with 2011. The charges for



booked capacity at the various voltage levels are mainly influenced by the agreed technical parameters of booked capacity, the volume of investment at the respective voltage level, and the charge for capacity booking in the higher-level transmission system. In 2012, the unit price for booked capacity was stable at the EHV level and it increased by 1 per cent at the HV level year-on-year.

Electricity distribution charges also include the controlled price to meet the extra costs incurred in support for electricity from renewable energy sources, combined heat and power generation and secondary sources (hereinafter referred to as the “charge for promoted sources”). Because of the increase in the expected extra costs of promoted sources to CZK 35.7 billion in 2012 and, in turn, a year-on-year increase in the extra costs of promoted sources by 11.1 per cent, the charge for promoted sources was originally calculated at CZK 623.47/MWh. The year-on-year increase in the extra costs of promoted sources was mainly caused by the large amount of electricity planned to be produced in photovoltaic plants, but also in biogas, biomass and wind power plants. Nevertheless, thanks to a CZK 11.7 billion subsidy from the national budget the originally calculated price was reduced to CZK 419.22/MWh. However, this item continued to take a major share in the overall growth in controlled prices.

The charge for the provision of system services is billed to the transmission system operator. The transmission system operator arranges for system services by purchasing ancillary services; system services help to secure the Czech electricity grid and to balance electricity generation and demand. The charge for system services dropped by 7.3 per cent year-on-year to CZK 144/MWh thanks to bargain purchases and the optimisation of the mix of the various types of ancillary services.

No changes occurred in connection conditions in 2012. The conditions for connecting a new electricity customer or generator to the distribution or transmission system, including the method of calculating the applicant’s share of the costs incurred in the connection and in supplying the required power, are set out in ERO public notice no. 51/2006 on the conditions of connection to the electricity grid. The technical conditions for connection are stipulated in the rules of the transmission/distribution system operation (the grid code).

With a view to preventing cross subsidies, regulatory reporting has been put in place which, following the accounting and legal unbundling, strictly requires the reporting of the costs directly allocable to each of the regulated activities. As part of secondary legislation, the ERO also sets the allocation rules for the allocation of overhead costs for companies that operate more than one regulated activity.

### **3.1.4 Cross-border issues**

#### **Access to cross-border infrastructure**

The Czech electricity grid is synchronised with the rest of Continental Europe (formerly the UCTE system). Cross-border interconnections exist with all neighbouring countries, i.e. Germany, Poland, Slovakia and Austria, and five transmission systems: 50 Hertz and TenneT (Germany), PSE (Poland), SEPS (Slovakia) and APG (Austria). At the respective cross-border point, transmission capacities are allocated on the basis of coordinated calculation within the Central and Eastern European region (known as Central Eastern Europe, CEE),<sup>1</sup> which also includes Slovenia and Hungary in addition to the neighbouring countries.

---

<sup>1</sup> Regions for coordinated congestion management are defined in point 3.2 of Annex I to Regulation (EC) No 714/2009

Coordinated capacity allocation for the whole of the next subsequent year and month (annual and monthly capacities) and for the individual trading hours on the next subsequent day (day-ahead capacities) is organised by Central Allocation Office (CAO), a subsidiary of the eight regional transmission system operators (TSO). Capacity allocation takes place under the Rules for Coordinated Auction of Transmission Capacity in the CEE Region (auction rules), which set out the conditions for access to cross-border infrastructure within the meaning of Article 37 (6) (c) of Directive 2009/72/EC. The transmission system operation rules, which are subject to approval by the ERO under Section 17 (7) (g) [of the Energy Act], refer to these auction rules. Informal coordinated assessments of the auction rules take place through the CEE regional coordination committee. The above-described capacity allocation method is used for cross-border interconnections with the 50 Hertz, TenneT, PSE and APG transmission systems. For interconnection with Slovakia, a different cross-border capacity allocation method is used, see below.

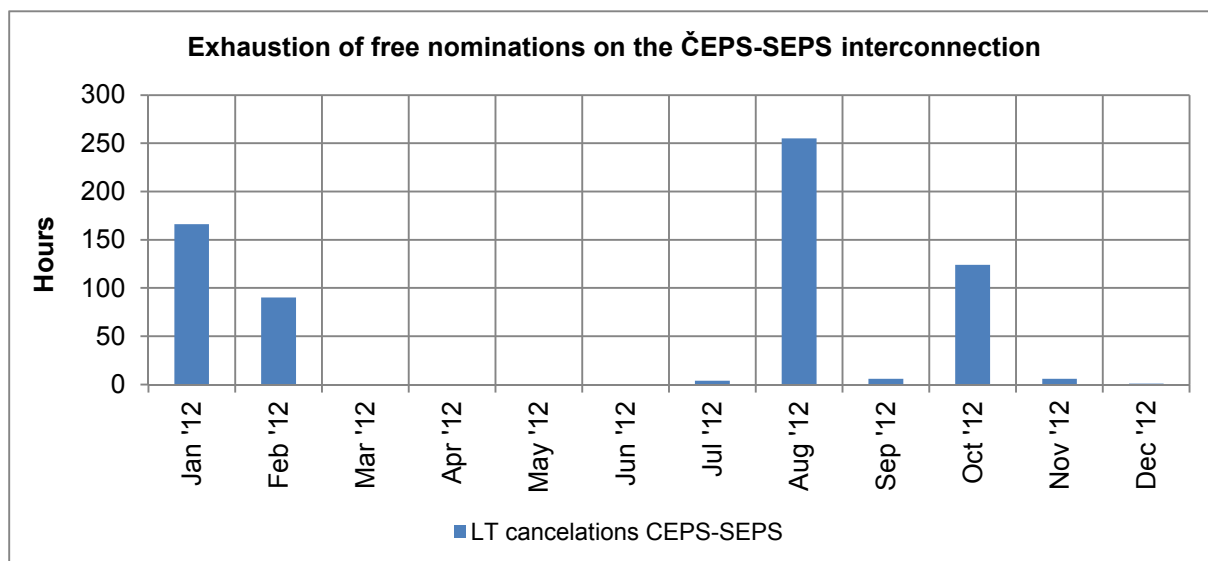
The auction rules are fully compliant with Article 16 of Regulation No 714/2009 (EC), and support, in particular, netting, i.e. the satisfaction of requirements for transmission in opposite directions. In line with the trend to use the booking of long-term transmission capacities mainly as hedges against price volatility, long-term transmission rights are allocated with an option of no use and subsequent resale in day-ahead auctions (the Use It or Sell It, UIOSI, principle). This approach is in line with the target model for the electricity industry.

Capacities on the national border with Slovakia (the interconnection with SEPS) are allocated differently. Market participants can send long-term nominations without having to separately book cross-border transmission capacity not later than two days before the cross-border transmission is to take place. The transmission capacity so used is free of charge. Should the aggregate volume of nominations exceed the capacity earmarked for the long-term timeframe, all nominations are cancelled and the entire available cross-border capacity is released for day-ahead implicit allocation through market coupling with Slovakia and Hungary.

Thanks to the historical interconnection between the Czech and Slovak transmission systems, high transmission capacity is available in the cross-border interconnector with SEPS, and contractual congestions therefore occur only infrequently. The ČEPS-SEPS interconnection therefore cannot be described as structurally congested within the meaning of point 1.4 of Annex I to Regulation (EC) No 714/2009. This is confirmed by the low occurrence of curtailments in long-term nominations and also the high level of price convergence between Czech and Slovak spot markets (see below). In the case of congestions, capacities are allocated in a non-discriminatory manner – implicit auctions for each of the trading hours on the following day. The ERO therefore regards the congestion management method employed on the national border with Slovakia as fully compliant with Article 16 and Annex I of Regulation (EC) No 714/2009.

In 2012, long-term nominations were curtailed only in 7.44 per cent of cases and occurrence of such curtailments was systematically related to the planned outages of national lines, which causes reductions in available transmission capacity. The cases of the curtailments in each month of 2012 can be seen in Chart 2. The ERO continuously monitors the situation and should a structural congestion occur on the Czech-Slovak interconnector, it is ready to initiate the implementation of an adequate congestion management method.

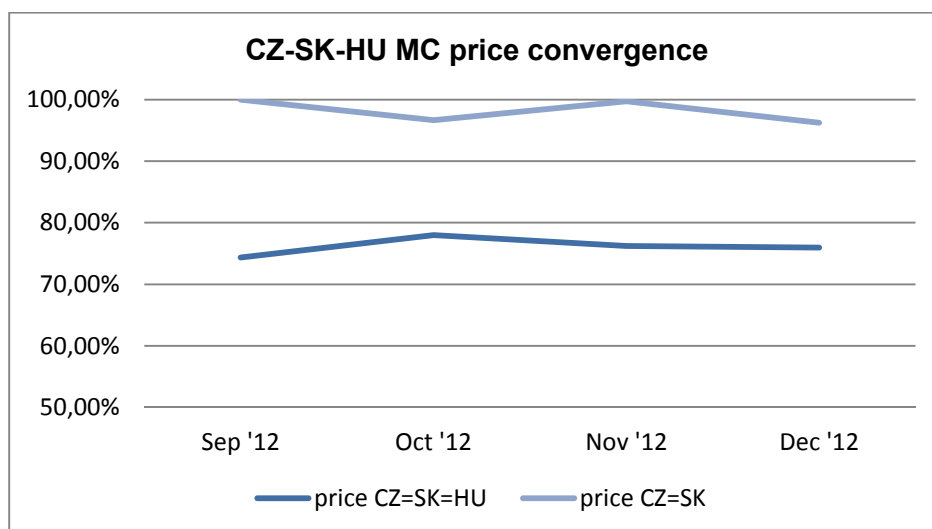
**Chart 1: Exhaustion of free nominations on the ČEPS-SEPS interconnection**



Source: ČEPS, a.s.

Since 2010, transmission capacities have been allocated to each of the trading hours on the following day (day-ahead transmission capacities) on the national border with Slovakia by means of implicit auctions through market coupling. Market coupling is a method for integrating spot (day-ahead) electricity markets whereby cross-border capacities are allocated together with electricity bought on the spot market (i.e. implicit allocation). On 12 September 2012, the project for integrating day-ahead markets in the Czech Republic, Slovakia and Hungary was launched following more than a year of preparations; for more details see below. An important indicator of the success of implicit allocation is the prevalence of identical prices on the spot markets involved, i.e. the so-called price convergence. In the period between MC launch and the end of 2012, price convergence in the Czech Republic, Slovakia and Hungary was 76 per cent on average. Taking into consideration prices in the Czech Republic and Slovakia only, this ratio is even higher and amounts to almost 98 per cent. Price convergence in each month between MC launch and end-2012 is shown in Chart 3.

**Chart 2: CZ-SK-HU MC price convergence**



Source: OTE, a.s., its own calculation

On all cross-border interconnectors, intra-day transmission capacities are allocated on the first come first served basis until the available capacity is exhausted. Coordinated capacity

allocation for all cross-border interconnectors is organised by ČEPS, a.s. The current system does not make charges possible, and therefore does not make an effective pricing of the limited transmission capacities possible. On the interconnector with SEPS, intra-day transmission capacity is allocated for individual trading hours. This service, which is closer to the target model, was launched on 12 April 2012. On other interconnectors transmission capacity is allocated for six four-hour intervals (the so-called sessions).

Since ČEPS, a.s. is a TSO that is fully unbundled in terms of ownership within the meaning of Article 9 of Directive 2009/72/EC, the ERO does not conduct any systematic monitoring of the use of congestion charges (i.e. proceeds from cross-border capacity auctions).

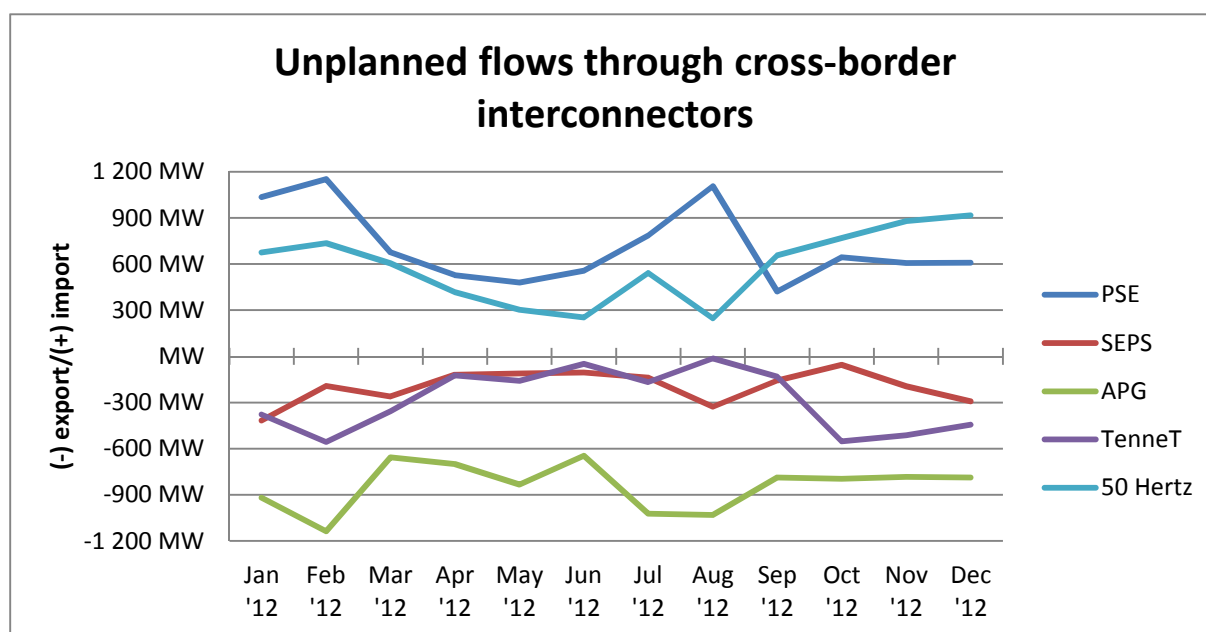
### **Co-operation with other regulatory authorities and ACER**

The ERO's employees who are responsible for the electricity industry attend the meetings of ACER working groups and sub-groups and of the Council of European Energy Regulators (CEER) on a regular basis. Because of the important powers vested in ACER, especially in the process of the preparation of network codes and newly also in the context of Regulation (EC) No 347/2013 on guidelines for trans-European energy infrastructure, the Electricity Industry Department mainly focuses on activities in ACER. The ERO also regularly takes part in the co-operation related to the collection and evaluation of data on and analysis of the conditions of the internal energy market and in the preparation of ACER's and CEER's reports and studies.

Regional co-operation takes place primarily within the CEE region for coordinated congestion management and capacity calculations and is formalised through regional initiatives and the regional coordination committee. The regional implementation group serves for consultations with regional TSOs and, as of 2012, also with energy exchanges and market operators. After failure in late 2011 to reach consensus in our region on the completion of the project for explicit flow-based cross-border capacity allocation, ACER stepped into the discussions. Having considered the existing options, on 2 April 2012 ACER and the respective national regulators adopted a joint declaration in which they expressed their attitude to the implementation of the target model in the CEE region. In the declaration, national regulators and ACER set forth that in line with the pan-European target model, the goal for CEE is to implement flow-based market coupling. Unlike the previous plans, the flow-based capacity calculation method was to be implemented together with implicit allocation (i.e. MC) in one single step by the end of 2013. However, 2012 did not see any agreement on the practical aspects of the flow-based capacity calculation and the implementation of the regional flow-based market coupling by the set date is therefore at a serious risk. Unfortunately, the implementation of the target model is encountering problems caused by the high occurrence of loop flows in the CEE region, which mainly affect the Czech and Polish transmission systems.

Chart 4 shows the average monthly value of unplanned flows in 2012. Unplanned flows are defined as the difference between physical flows actually measured on cross-border lines and total nominations under cross-border transmission rights (i.e. commercial/scheduled flows) for cross-border interconnections. It is possible to identify in the chart the predominating N-S direction of the unplanned flows that enter the Czech transmission system from the 50 Hertz and PSE transmission systems and largely exit through the interconnector with APG; some of them then return to Germany, specifically the TenneT transmission system.

**Chart 3: Unplanned flows on cross-border interconnectors**



Source: ČEPS, a.s., ERO's own calculation

Unplanned and loop flows are an inevitable part of densely interconnected electricity grids, in particular where the zonal approach to congestion management is used. However, when loop flows exceed a certain bearable limit they constitute a considerable risk for the safe operation of transmission systems. Unplanned flows also weaken the reliability of the transmission capacity calculations and at the end of the day they can therefore result in deteriorated conditions for cross-border trading. In 2012, the ERO actively participated, at bilateral, regional and European levels, in the effort to reduce the extent of this phenomenon.

The autumn of 2012 saw coordinated assessment of the CAO auction rules for 2013 in the regional coordination committee. It turned out that effective coordination of the assessment and potential changes to the auction rules is considerably constrained by the differing procedures on the approval of the terms and conditions for access to cross-border infrastructures within the meaning of Article 37 (6) (c) of Directive 2009/72/EC in each of the member states. As mentioned above, a highlight of 2012 was the completion of the CZ-SK-HU MC project and the MC launch on 12 September 2012. The success of this project was primarily dependent on close co-operation between TSOs and power exchanges and market operators in the countries involved. The CZ-SK-HU MC project was not a mere expansion of the already existing MC to include Hungary. Quite the contrary, the essence of the project was a fundamental qualitative change in the architecture of the project with regard to the target model of the electricity market. In the preparation of the CZ-SK-HU MC, great attention was devoted to ensuring a high level of compatibility with the solution envisaged for the integration of all markets within the EU. This was mainly reflected in the use of the Cosmos matching algorithm. The project also reflected the network codes being developed, in particular the network code for capacity calculation and congestion management. National regulators provided unambiguous support to the project and also saw to it that the resulting solutions would be compatible with the target model for the entire EU. The success of the project in combination with the unclear situation surrounding flow-based market coupling in the rest of the CEE region sparked Poland's and Rumania's interest in a further expansion of the project.

Regulation (EC) No 347/2013, the draft of which was submitted in October 2011 and which was approved in March 2013, gives NRAs and ACER new tasks in the process of selecting projects of common interest. During 2012, regional *ad hoc* working groups were selecting projects of common interest, with a view to the drafting of the first Union list of such projects. ACER was the venue of close co-operation and coordination of the assessment, from the regulatory point of view, of the proposed projects, in which the ERO took an active part.

### **Monitoring of the investment plan and assessment of its compliance with the Community-wide network development plan**

The implementation of the third energy package in the Energy Act has made it incumbent on ČEPS, a.s. to prepare ten-year investment plans. The underlying idea of the whole process of the long-term planning of the development and modernisation of energy infrastructure is to identify the best way for the gradual integration of energy markets in Europe.

Section 24 (10) (j) of the Energy Act requires ČEPS, a.s. to prepare a ten-year plan for the development of the electricity transmission system, which is subject to the ERO's approval under Section 17 (7) (i) of the Energy Act. The ERO assessed the plan for the development of the Czech transmission system for 2013-2022, which was submitted by ČEPS, a.s. on 25 May 2012. The CZK 65.9 billion investment programme of ČEPS, a.s. covers the period from 2012 to 2025 and includes an approximately 20% expansion of the system and average annual capital expenditure of CZK 4.7 billion. The investment programme responds to the need for higher transformation capacities due to the increase in demand by about 200-250 MW every year, and also to the increase in distributed generation (mainly RES). Another major share of investment is the replacement of the 400 kV system, which was rolled out between 1959 and 1980. The service life of the lines was originally designed for 40 years. The completion of the replacement is planned for 2030 and includes the construction of five new 400 kV substations (24 substations exist today) and the rollout of 675 km of new 400 kV lines (the current length is 3,479 km). The requirements for connection to the network include, *inter alia*, investment in network expansion related to the completion of the Temelín NPP, investment in the transmission system in northern Bohemia where the Ledvice, Úžín, Počerady, Mělník and Vyškov power stations are to be retrofitted and upgraded, the construction of new combined cycle units in Mělník and Úžín and investment in the development of the network for the connection of RES. The element of reinforcing the transmission system to accommodate the rising levels of cross-border flows is also important.

Unlike the plan for the development of the gas transmission system, compliance with the Community-wide network development plan is not subject to assessment; the plan for the development of the electricity transmission system is only assessed *mutatis mutandis* under Section 58k (3) of the Energy Act, i.e. taking into consideration the needs of the Czech electricity grid. In the respective administrative proceedings, the ERO did not find any non-compliance with the requirements of Section 58k (3) of the Energy Act and approved the submitted development plan by its decision of 28 December 2012.

An assessment of the plan for the development of the electricity transmission system for the purpose of this National Report under Article 37 (1) (g) of Directive 2009/72/EC suggests that the plan is in line with the EU's TYNDP, Ten-year Network Development Plan, and no shortcomings can be noted. Almost all capital projects contained in TYNDP 2012 are part of the plan for the development of the Czech transmission system from 2013 to 2022. Exceptions are investments that are still being considered under TYNDP and the potential implementation of which is expected over the long term, going beyond the scope of the development plan (beyond 2022). These specifically include TYNDP Investment number 35.138, increasing the interconnection between the Czech transmission system and the

German transmission system owned by 50 Hertz, and also Investment number 55.310, new connection between the Výškov and Řeporyje substations, contained in TYNDP. In both cases the projects are still being considered and their potential implementation is beyond 2022, which goes beyond the scope of the development plan. A large part of the capital projects (a total of 26) have also been proposed as projects of common interest under Regulation (EC) No 347/2013. In connection with the high occurrence of unplanned flows on the Czech transmission system's cross-border interconnections, a phase shift transformer (PST), to be erected at the end of the cross-border interconnection with 50 Hertz (Germany) at the Hradec substation, is planned for 2016 to 2017. This transformer will support more efficient control of flows in the interconnected transmissions systems in the CEE region, thereby significantly boosting security of supply. The operation of the transformer will be coordinated with the neighbouring TSOs. This approach is also expected to help optimise cross-border transmission capacities. The ERO supports this investment proposal, which is also part of the ENTSO-E regional investment plan.

### **3.1.5 Compliance**

The ERO pursues its mission on the basis of the provisions of the Energy Act which lay down the rights and obligations arising from the relevant provisions of the EU legislation, i.e. Directive 2009/72/EC and Regulation No 714/2009/EC. Czech legislation is fully in compliance with these EU regulations thanks to the amendments to the Energy Act and implementing regulations.

All changes to laws and regulations that the ERO carried out in 2012 were consulted with all the stakeholders. In developing and amending legislation, the ERO at all times places emphasis on the maximum transparency, non-discriminatory approach and elimination of negative impacts on the Czech electricity market.

New Act No. 165/2012 on promoted energy sources and amendments to certain laws was completed and came into force in 2012, with some provisions taking effect as of 1 January 2013. It was sponsored by the Ministry of Industry and Trade (MIT) and the ERO took an active part in its development.

In accordance with its authorisation under the Energy Act, the ERO drafted and promulgated some new implementing regulations, or amendments to earlier and still applicable implementing regulations necessitated by the experience with their application.

In 2012, the ERO promulgated a new public notice, no. 59/2012 on regulatory reporting, which provides for the essentials and structure of regulatory reports, including model forms, depreciation rates for regulatory purposes, rules for the preparation of regulatory reports, and dates for returning these reports.

In 2012, the ERO also amended the following implementing regulations related to the Energy Act: public notice no. 348/2012, amending no. 140/2009 on regulatory methods in the energy industries and procedures for price control, as amended; public notice no. 438/2012, amending no. 541/2005 on Electricity Market Rules and principles of pricing the electricity market operator's activities and on the execution of certain other provisions of the Energy Act, as amended; public notice no. 445/2012, amending no. 426/2005 on the details of licensing for business in energy industries, as amended.

The MIT also contributed to the development of new legislation on the electricity industry in 2012; pursuant to the Energy Act, the MIT promulgated several public notices influencing the electricity market, namely the following: a completely new public notice, no. 387/2012 on the State's authorisation for the construction of electricity generating plants; public notice

no. 388/2012 amending no. 79/2010 on the dispatch control rules in the electricity grid and data transmission for dispatch control; public notice no. 476/2012 amending no. 82/2011 on electricity metering and on the method of calculating compensation for unauthorised electricity take, supply, transmission or distribution.

## 3.2 Promoting competition

### 3.2.1 Wholesale markets

#### 3.2.1.1. Monitoring the level of prices, the level of transparency, and the level and effectiveness of market opening and competition

In the Czech Republic, electricity is traded at Power Exchange Central Europe, a.s. (hereinafter also “PXE”), at the Leipzig energy exchange, EEX, under bilateral contracts, and in spot markets organised by OTE, a.s. While standard products traded at PXE and the products on the spot market of OTE, a.s. have fixed expiry dates, these rules do not apply to bilateral contracts. The terms of bilateral contracts vary; an electricity producer and an electricity trader, or a trader and a customer, usually enter into one-year agreements. Since February 2009, physical products with delivery in the Slovak grid, and since March 2009 physical products with delivery in the Hungarian grid have also been traded at PXE. In addition to physical products PXE has also introduced financial products without an obligation of physical supply. On the other hand, the spot market was integrated and transferred as a whole to OTE, a.s. for operation, but it has remained tradable through PXE terminals. In 2012, the Czech-Slovak-Hungarian Market Coupling project was completed; the plan for the future is to extend this integrated market to include Poland and Rumania.

Electricity traders can use any combination of bilateral contracts and/or energy exchange products, including the OTE, a.s. platforms and foreign exchanges for buying and selling. It is therefore not feasible to clearly determine the structure of electricity procurement for final customers after the supplier has bought it or re-sold it in various market places in Europe.

The following tables and charts show PXE liquidity indicators (volumes traded, number of contracts etc.), including average prices in 2012.

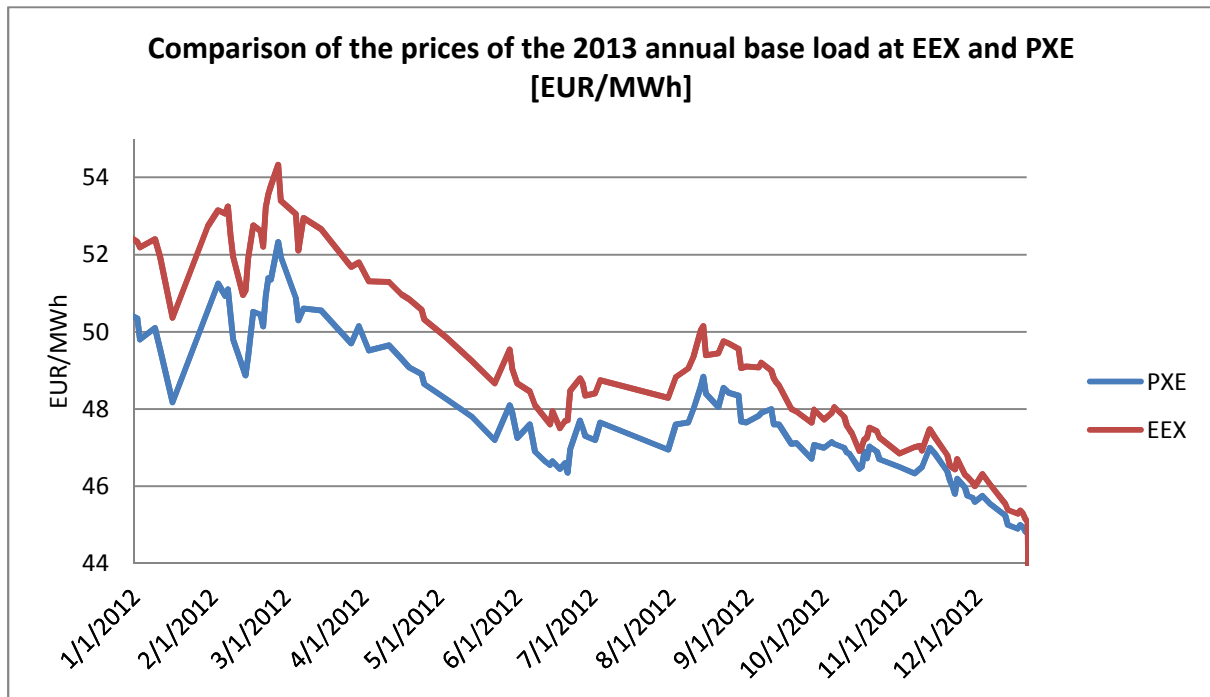
**Table 1: Liquidity indicators at PXE with futures for the Czech Republic**

|               | Volume (MWh) | Volume (€)  | Number of contracts | Average price (€/MWh) | Average contract (€) | Average hourly contract (MW) |
|---------------|--------------|-------------|---------------------|-----------------------|----------------------|------------------------------|
| BASE products | 17,191,982   | 808,933,185 | 5,975               | 47                    | 135,386              | 120                          |
| PEAK products | 628,404      | 36,893,794  | 1,066               | 59                    | 34,610               | 25                           |
| Total         | 17,820,386   | 845,826,979 | 7,041               |                       | 120,129              | 105                          |

Source: PXE



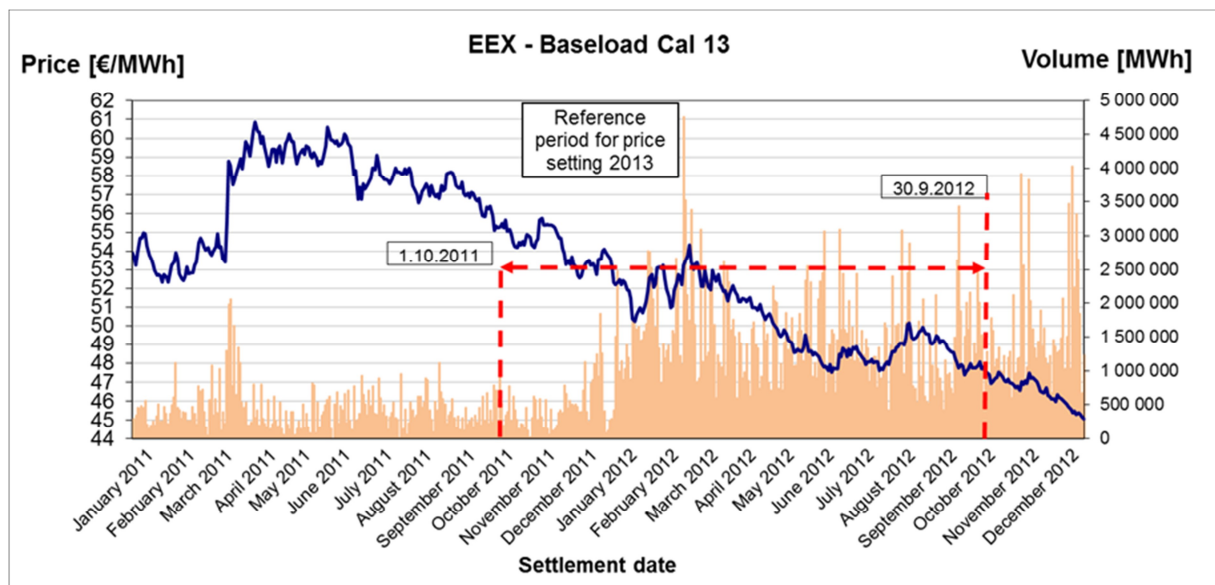
**Chart 4: Futures 2013 prices, annual base load**



Source: PXE

The chart indicates that the prices of the products traded at PXE (or the spot market organised by OTE, a.s.) are closely correlated with those at the Leipzig energy exchange, EEX, for products to be delivered to the German and Austrian electricity grids. The development at the Leipzig energy exchange, EEX, is shown in Chart 6.

**Chart 5: Prices and volumes of traded 2013 futures, annual base load, at EEX**



Source: EEX

The remaining volume of electricity is traded under OTC bilateral contracts and also in the spot market (day-ahead and intra-day markets) organised exclusively by OTE, a.s. since February 2009. In 2012, a total of 112,466 GWh was traded under bilateral contracts registered in the OTE system; 19 GWh was traded in the block market; and in the coupled Czech-Slovak day-ahead market, integrated on the MC principle, which was coupled with the Hungarian market in September 2012, 10,971 GWh was traded. On the intra-day market,

328 GWh of electricity was traded. CZ-SK-HU MC was launched in September and therefore it has not yet been possible to report data for full year 2012. All cleared entities, i.e. not only traders and producers but also the customers who are responsible for imbalances, can go to the spot market to procure electricity.

In this segment, the ERO did not carry out any checks in 2012.

In 2012, the ERO set up a REMIT Department, because under Regulation (EC) No 1227/2011 (REMIT) the ERO shall ensure the integrity and transparency of wholesale energy markets, where it should foster open and fair competition for the benefit of final consumers of energy. The goal of the implementation of the Regulation at the national level is to ensure functioning competition on the market, prohibition of insider trading and market manipulation, and market monitoring, and to ensure that energy prices reflect the interplay between supply and demand. It is intended to help prevent market abuse while respecting the specific conditions of the sector, through monitoring, with the possibility of exercising investigatory, enforcement and penalising powers.

### **3.2.2 Retail markets**

As regards electricity traders' market position, this market is fully liberalised in the Czech Republic at both wholesale and retail levels. Electricity traders are therefore not legally constrained at all in buying electricity directly from producers (generators) or at exchanges or on spot markets in the Czech Republic and in other countries. At the same time they have the right to sell electricity to market participants to other countries.

Traders must provide distribution system operators with identification details of the customers whom they supply under agreements on bundled supply services. Traders must also provide electricity transmission and distribution system operators with information required for the safe and reliable operation and development of these systems. Electricity traders' obligation is to promote energy services and offers thereof. Electricity traders have the right to receive from the market operator, the information that they need for billing their electricity supply to customers whose supply point is registered with OTE.

In respect of consumer protection, the transposition amendment to the Energy Act has further empowered customers through the provisions of Section 11a of the Energy Act, which now requires electricity generation and electricity trading licence holders to publish, in a manner allowing remote access, their terms and conditions of electricity supply and electricity supply prices for households and natural persons who carry on a business taking electricity from the LV level. Licence holders shall also publish any changes to electricity supply prices or changes to other conditions of electricity supply no later than 30 days before the day of effect of such changes.

#### **3.2.2.1 Monitoring the level of prices, the level of transparency, and the level and effectiveness of market opening and competition**

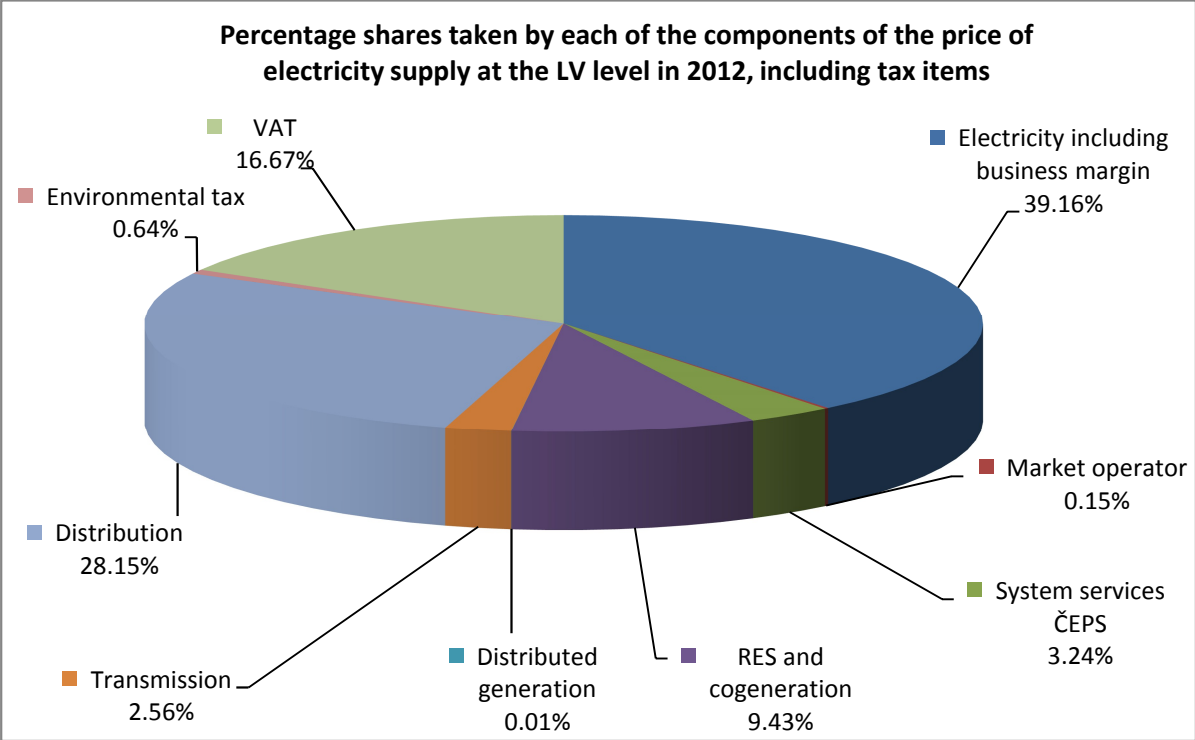
The overall price of electricity supply for customers at the LV level is made up of the regulated items of charges for distribution and related services and the unregulated prices of electrical energy products, which are determined by the supplier selected by the customers.

The ERO sets out the regulated items of the price in its binding price decisions. Changes of these prices for customers at the LV level also reflect the external factors that influence network operation in technical and economic terms (in particular the development of electricity production from promoted clean sources, line losses, the development of the size and structure of consumption, and the rate of inflation).

For 2012, the average year-on-year increase in the overall price of electricity supply for households was 4.2 per cent and for low-demand business customers it was 4.4 per cent (net of tax items). The change in electricity price for each individual customer could differ from the above values due to the selected tariff, rated current of the main circuit breaker upstream of the electricity meter, nature and size of consumption and, last but not least, in relation to the supplier of the energy.

Chart 7 shows the percentage shares (including VAT and electricity tax) of the various components in the resulting price of electricity supply for households for 2012.

**Chart 6 Percentage shares taken by each of the components of the price of electricity supply at the LV level in 2012**



Source: ERO

**3.2.3 Recommendations on supply prices, investigations and measures to promote effective competition**

Eligible customers have the right to select, at their own discretion, any supplier of electrical energy and the most suitable product on offer with regard to the nature and size of their consumption.

On the contrary, payments for distribution depend on the point of connection, i.e. the relevant distribution company to whose network the supply point is connected. Thus, customers cannot select their distributor. However, customers at the LV level can change their distribution tariff subject to meeting the conditions for obtaining the tariff; or by changing the circuit breaker they can influence the fixed components of the regulated charge. Most customers in the Czech Republic are connected to the electricity grid through regional distribution companies: ČEZ Distribuce, a.s., E.ON Distribuce, a.s, or PREdistribuce, a.s.

Customers are also unable to influence the charges for the other regulated items; the charge for system services, the charge for meeting the extra costs incurred in support for electricity generation from renewable energy sources, combined heat and power generation and

secondary sources, and the charge for the market operator's service of the clearing of imbalances, are the same for all final customers in the Czech Republic regardless of the point of connection, voltage level or selected supplier.

Customers are able to proactively influence a part of the costs of electricity at the LV level by selecting their energy supplier; the balance of the costs is made up of regulated charges for distribution and other regulated items. The shares taken by each of the items generally differ for each individual final customer and depend on the type of the tariff and size of consumption; on average, regulated items account for approximately 60 per cent of the resulting price of supply for household customers (but only 20 per cent for some tariffs).

Under Article 37 (1) (o) of Directive 2009/73/EC, the ERO publishes, in accordance with Section 17 (7) (l) of the Energy Act, recommendations in relation to electricity supply prices for households.

The transposition amendment has markedly broadened the ERO's competences and Section 17c of the Energy Act has remodelled the ERO's co-operation with the Office for the Protection of Competition (ÚOHS). This provision requires the two authorities to provide each other with suggestions, information and other forms of co-operation required for the performance of their tasks, such exchanges being subject to the same level of confidentiality on the receiving side as the disclosing side guarantees.

The ERO is also required to advise ÚOHS of market participants' practices that there exist good reasons to believe that they distort or restrict, or result in the distortion or restriction of, competition, of the use of constraining or unfair terms and conditions in contracts on the electricity market, and of the methods of electricity pricing for households.

## **Checks**

The ERO carried out periodical checks, where it used its findings from market monitoring and suggestions received from consumers and final customers, preferentially focused on electricity traders' practices, mainly in the electricity supplier switching process and in their performance under agreements in place. Investigations also focused on electricity billing and observance of the standards of supply and service quality in the electricity industry, and investigations also covered compliance with the principles set for the electricity market and were accompanied by checks of the required essential details of agreements on electricity supply and distribution.

The ERO also carried out (on the basis of suggestions from the outside, contained in consumers' submissions) checks for suspicion of violations of consumer protection legislation (in particular prohibition of unfair business practices) in respect of the rights attached to contract rescission, including checks specifically focused on licence holders' obligation to provide, when offering and selling electricity to consumers, complete information enabling consumers to know the final offering price (covering all taxes, customs duties and charges) prior to executing an agreement on bundled services of electricity, and on the obligations related to the publication of changes in electricity supply prices.

## **4 The gas market**

### **4.1 Network regulation**

#### **4.1.1 Unbundling**

The Czech Republic had earlier implemented Directive 2009/73/EC concerning common rules for the internal market in natural gas in its national legislation, which subsequently gave rise to duties for gas infrastructure operators and for state administration authorities. The transposition amendment to the Energy Act made it possible to extend the ERO's powers in respect of supervision, oversight, and penalisation for violations of the rules for the ownership unbundling of systems. In this connection, the ERO had to promulgate or amend various pieces of legislation, including implementing regulations.

In accordance with the applicable legislation, the TSO meets the requirements concerning the prohibition of control over the TSO by gas producers and gas traders, prohibition of control over gas producers and gas traders by the TSO, and prohibition of membership of the bodies of gas producers and gas traders.

Distribution companies are legally unbundled from gas trading companies. Similarly, the TSO is legally unbundled from distribution system operators.

The meeting of the unbundling requirements has resulted in an increase in investments in networks, in provisions for security of supply and, last but not least, in a greater transparency of the industry. Another result was, for example, the regulator's easier supervision over the industry.

NET4GAS, s.r.o. was legally unbundled from RWE Transgas, a.s., a gas importer and supplier, as of 3 September 2009. However, it was part of a vertically integrated undertaking together with this company. With regard to the cost intensity, interferences with and exercise of ownership rights, impacts on the regulation of gas transmission charges (and, in turn, impacts on customers) and the time required for implementation, the option of an independent transmission system operator, ITO, emerged from the evaluation of the feasible options for an effective unbundling. Having met the independence conditions laid down in the Energy Act and having demonstrated the same to the ERO, the transmission system operator was granted an independence certificate by the ERO. The application for an independence certificate was submitted to the ERO on 29 February 2012; on 27 September 2012, the ERO notified the European Commission of its draft decision on the granting of the independence certificate; and on 30 November 2012, the European Commission sent the ERO its opinion in which it expressed its approval for the application of ITO unbundling.

#### **4.1.2 Technical functioning**

##### **The gas transmission system**

The Czech gas transmission system is comprised of gas pipelines having a total length of 3,806 km. Part of the gas transmission system is six border transfer stations (at Lanžhot, Hora Sv. Kateřiny–Olbernhau, Hora Sv. Kateřiny–Sayda, Brandov, Waidhaus, and Český Těšín). This system has three axes that connect the Czech Republic with neighbouring countries. In the east to west direction, we can identify the so-called northern and southern branches. The northern branch connects the Lanžhot border transfer station (BTS) with the Hora Svaté Kateřiny BTS. The second axis, comprising the southern branch, connects the Lanžhot BTS and the Waidhaus BTS. Infrastructure interconnecting the Czech and Polish gas systems is

regarded as the third axis of the gas transmission system. Five compression stations help to maintain the required pressure in the pipelines. The Kralice nad Oslavou and Kouřim compression stations are operated on the northern branch, while the Hostim and Veselí nad Lužnicí compression stations are operated on the southern branch. The Břeclav compression station serves in the south-eastern part of the transmission system upstream of the forking into the northern and southern branches. The total installed capacity of all five compression stations is 297 MW. Six direct customers are connected to the gas transmission system, while another 75 delivery points deliver gas into distribution networks. All delivery points are equipped with commercial metering of gas quantity and 21 nodal points in the system measure gas quality.

The year 2012 saw the completion of the GAZELLE gas pipeline; it has a length of 166 km and connects to the OPAL gas pipeline near the village of Brandov, and it is further connected via the Rozvadov-Waidhaus BTS with the MEGAL transmission system that serves for supplying the south of Germany and the east of France.

The first quarter of 2012 saw the completion of the last work on the STORK project, an interconnector between the Czech and Polish gas transmission systems near the town of Český Těšín. The implementation of the first stage of this project, which was co-financed by the EU under the European Energy Programme for Recovery, has helped to enhance the diversification of the sources and routes for the industrialised area of Upper Silesia on the Polish side of the national border. Customers in Poland have therefore also gained access to gas storage facilities in Moravia. Because of the crucial role that the Czech-Polish interconnector can play in the process of gas market integration and liberalisation in this part of Europe, further development of this cross-border interconnector is being prepared; it will make it possible to optimise the use of transmission capacity and support gas flow in both directions. In line with the EU's priorities, energy sources will be diversified and, in turn, the energy security of the Czech Republic and the whole region will be reinforced.

### **Distribution system**

In 2012, six regional distribution companies with a total of 73,613 km of pipelines distributed gas.

In addition to the regional distribution companies, gas was also distributed within delineated areas by local distribution system operators; the systems that they operate are connected via entry delivery points to the regional distribution systems.

### **Gas storage facilities**

Three storage system operators operate in the Czech Republic; in 2012, their total storage capacity amounted to 3,487 million m<sup>3</sup>. RWE Gas Storage, s.r.o. and MND Gas Storage, a.s. had an aggregate capacity of 2,911 million m<sup>3</sup>, which is offered in the Czech Republic as freely tradable for any European customer. SPP Storage, s.r.o. operates the Dolní Bojanovice gas storage facility with a capacity of 576 million m<sup>3</sup>, which is connected to the Slovak gas network by a gas pipeline.

In line with the objective of the Czech Republic's National Energy Concept, which envisages a further expansion of the storage capacities in UGS facilities to 40 per cent of the domestic customers' total annual gas demand, and therefore a higher security of supply for final customers, 2012 saw an increase in the storage capacities of both storage system operators offering storage capacity in the Czech Republic.

In 2012, RWE Gas Storage, s.r.o. completed a project for increasing the storage capacity in the Třanovice UGS facility. Under this project, the capacity was increased by 290 million m<sup>3</sup>

to the final 530 million m<sup>3</sup> in three years. MND Gas Storage, a.s. completed the reinforcement of the Uhřetice storage capacity to 215 million m<sup>3</sup> in 2012.

### **Requirements for quality of service**

The requirements for the quality of services and, in this respect, the standards of gas supply, are laid down in public notice no. 545/2006 on the quality of gas supply and related services in the gas industry; it sets out the basic rules in relation to customers, which are applicable to gas traders and also to distribution system operators, the gas transmission system operator and storage system operators.

The public notice lays down standards of the required quality of supply and services related to the regulated activities in the gas industry, the amount of compensation for non-compliance, and the time limits for claiming compensation. Licence holders are obliged to keep the parameters set out in the public notice and to publish, by 31 March of every calendar year and in a way enabling remote access, summary reports on their observance of all the standards for the preceding calendar year.

On the basis of our checks of available reports on supply quality standards, posted on licensed companies' website, we note that in 2012 only two companies reported one case each of the payment of compensation for failing to keep the time limit for handling complaints about gas supply billing. The TSO and operators of distribution systems and gas storage facilities also have the obligation to prepare Reports on Maintenance Quality and Level and submit them to the ERO and the MIT. The content and structure of these reports have been specified by the MIT and they serve primarily as a means of monitoring the efficiency of gas installation maintenance.

### **System balancing**

The TSO is responsible for the physical balancing of the gas system. For balancing, it uses the line pack in the gas system and the flexibility service. The flexibility service consists in a flexible gas supply/take for keeping a balance between gas offtake and supply from and into the transmission system. The scope of the service is defined by the maximum flexibility service based on the total working volume of gas and the maximum quantity that the provider of this service is obliged to supply to or take from the TSO for one gas day. This service is provided by the gas trader who wins the tendering procedure for the current year. The ERO monitors the baseline parameters of the service and the tendering process for the purpose of guaranteeing transparency and a non-discriminatory approach to all the entities involved.

## **4.1.3 Network and LNG tariffs for connection and access**

### **Tariffs**

The ERO's public notice no. 140/2009 on regulatory methods in the energy industries and procedures for price controls, as amended, sets out the methodology for calculating gas transmission and distribution charges. Under the Energy Act, the regulated components of the gas supply price include gas transmission charges, gas distribution charges and charges for the market operator's services.

The ERO is also responsible for the prices charged by the supplier of last resort. To date, there has been no need to apply the regime of the supplier of last resort.

Prior to becoming effective, the tariffs determined by the ERO are subject to a public consultation process.

The regulatory method is based on the revenue cap principle, i.e. the setting of the so-called adjusted allowed revenue, the components of which include eligible costs, depreciation, profit, a correction factor and possibly some other eligible variables. In relation to booked capacity and gas consumption, the corresponding prices emerge. The regulatory method remains unchanged for a regulatory period.

Gas transmission charges are set for each of the entry and exit points in the gas transmission system, which include the Czech Republic's border points, virtual gas storage facilities in relation to storage system operators and the interface between the transmission and distribution systems, which serves for gas supply to supply points of customers within the Czech Republic, the so-called domestic point. The charge for transmission to the domestic point is integrated within the gas distribution charge.

Gas transmission charges are related to a unit of booked firm transmission capacity. In respect of transmission charges at the exit points of the transmission system, a variable component of the charge is set to reflect the TSO's costs related to the gas quantity transported; these costs include the costs of fuel gas for compression stations. The fixed component of the gas transmission charge represents the payment for booked firm transmission capacity at the respective entry or exit point of the transmission system.

Transmission charges correspond to the various types of booked transmission capacities and reflect the effort for the maximum attraction of the Czech transmission system, including the support for a fully functional competitive environment in the Czech market.

Distribution system operators' adjusted allowed revenues can also be split into a part related to booked distribution capacity and a part related to distributed gas quantity, provided that in respect of customers with an annual consumption of more than 630 MWh approximately 70 per cent of the revenue is collected through the fixed component of the charge. In respect of customers in the low-demand category (annual consumption up to 630 MWh) and households, 30 per cent of allowed revenue is collected through the fixed component. Distribution charges also take into account each of the customer categories. For customers in the high-demand and medium-sized demand categories, the charge for booked distribution capacity is determined using a logarithmic formula, while for the low-demand customer category and households the fixed component of the charge is represented by the standing monthly charge. The methodology for gas distribution pricing is the same for all distribution system operators.

The charge for clearing, which is carried out by OTE, a.s., is based on the value of the adjusted allowed revenues set for the market operator for the gas industry, and is tied to the gas quantity consumed by customers in the Czech Republic in the respective year. As of 2012, this charge also includes a fee related to the ERO's activities, which is set in the Energy Act at CZK 1 per MWh of gas consumed.

The unregulated part of the gas supply price includes the commodity and trade charge and the charge for the services of gas supply flexibility, which serves for covering the customer's varying requirements for gas consumption during a year. These charges fully depend on the suppliers' business strategy for entities on both wholesale and retail markets.

### **Prevention of cross-subsidies**

The legal unbundling from each other of the respective entities - holders of licences for gas transmission, distribution and storage, under Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, has resulted in the creation of an environment preventing cross-subsidies between transmission, distribution,



storage and supply activities. The ERO sees to it that rules ensuring the separate performance of the various licensed activities are observed.

### **Regulated and negotiated access to storage**

In the Czech Republic, access to underground gas storage facilities is based on the principle of negotiated third party access. In respect of access to storage capacities, national legislation imposes a duty on storage system operators to sell released or new storage capacity in online auctions. The ERO monitors the size of the offered capacities and whether the terms on which the released or free storage capacity is being auctioned are reasonable, non-discriminatory and transparent.

In its public notice no. 365/2009 on Gas Market Rules, as amended, the ERO lays down the minimum required terms and conditions of storage capacity auctions. These details include the price per unit of storage capacity, the date on which the auction starts, the procedure for remitting the financial deposit [‘security’] required for participation in online actions, the size of the offered storage capacity, the model form of the gas storage agreement, and the amount of the increase in the price per unit of storage capacity between auction rounds. The Gas Market Rules also lay down the time limits and method for the publication of the terms and conditions of forthcoming actions.

The ERO does not interfere with storage system operators’ business strategies in any manner whatsoever. On the other hand, the ERO evaluates the level to which available storage capacities are used and on the basis of this evaluation and the public consultation process modifies the conditions for access to UGS facilities with a view to a higher use of the storage capacities.

In 2012, two auctions for storage capacity booking were held in the Czech Republic. RWE Gas Storage, s.r.o. offered 10 million m<sup>3</sup> of storage capacity for a one-month gas storage agreement. This auction generated a resulting price for storage capacity of CZK 0.86/m<sup>3</sup>. MND Gas Storage a.s. offered gas market participants new capacity amounting to 4.5 million m<sup>3</sup> in an auction; 112,500 m<sup>3</sup> of storage capacity was sold in the auction and the final price for storage capacity was CZK 0.87/m<sup>3</sup>.

### **4.1.4 Cross-border issues**

#### **Access to cross-border infrastructure**

As planned, in 2012 NET4GAS, s.r.o. completed the construction of the GAZELLE gas pipeline. In 2011, the ERO decided to exempt GAZELLE from the obligation to allow third party access under the conditions of the Energy Act and from the obligation of the TSO’s ownership unbundling under Section 67 of the Energy Act, with effect until 1 January 2035.

In the past years, gas transmission agreements were point-to-point contracts. Following the adoption of the third energy package the model of transmission capacity booking was changed to the entry-exit model, which offers a considerably higher flexibility, and therefore lower risks, especially for gas traders. The implementation of the third energy package into Czech law required the TSO to propose a conversion of its point-to-point transmission agreements to entry-exit transmission agreements. In 2012, all the remaining contracts held by traders were converted to the entry-exit, as required by the EU legislation and the Czech Energy Act. Access to cross-border infrastructure is allowed on the basis of booking one of the existing capacity products. The booking of standard firm transmission capacity, daily firm transmission capacity, standard interruptible transmission capacity, daily interruptible transmission capacity, firm day-ahead coordinated transmission capacity, interruptible day-

ahead coordinated transmission capacity, firm day-ahead uncoordinated transmission capacity and interruptible day-ahead uncoordinated transmission capacity is available for shippers. Capacity can also be booked for more than five years in long-term gas transmission agreements.

NET4GAS, s.r.o. has developed, in co-operation with the operators of connected transmission systems, ONTRAS–VNG Gastransport GmbH (Germany), the GATRAC (Gas Transport Cooperation) capacity platform, which makes it possible for shippers using the transmission system to book coordinated (called ‘bundled’ in GATRAC) firm and interruptible transmission capacity at the border points of the operators of the transmission systems involved. In line with the plan from the preceding year, in October 2012 eustream, a.s., the Slovak TSO, joined the project.

The platform makes it easier for traders to coordinate cross-border gas transmission between trading points between the Czech Republic, Germany (NCG or Gaspool), Slovakia and Austria (CEGH Baumgarten). It also simplifies the booking and nomination process for the customers, who book and nominate gas transmission with a single TSO of their own choice (the train ticket concept). Capacity is booked online using a simple click-and-book system.

The benefits of this approach include the existence of a single contract, a single tariff in a single currency, and easier contract management. The organising TSO also arranges coordination, i.e. matching and billing of nominations.

The platform implements the approach that is envisaged in the proposed capacity allocation mechanisms network code.

### **Co-operation with other regulatory authorities and ACER**

In 2012, the ERO did not pass any administrative decisions with a cross-border importance requiring consultation with the other member states’ regulatory authorities or the Agency under Section 17 (7) (o) of the Energy Act (and therefore under Article 41 (1) (c) of Directive 2009/73/EC concerning common rules for the internal market in natural gas).

Nevertheless, cross-border co-operation in informal issues takes place on a daily basis. This mainly includes co-operation in data collection and evaluation, analysis of the status of the internal gas market, etc. The ERO’s employees also regularly take part in the Agency’s working groups on gas. In these working groups, in 2012 they were mainly involved in the preparation of the framework guidelines and network codes under Article 6 of Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks and in the evaluation of projects of common interest, PCI.

### **Monitoring the investment plan and assessment of its consistency with Community-wide network development plan**

In 2012, NET4GAS, s.r.o., an independent transmission system operator, submitted a ten-year plan for the development of the gas transmission system in the Czech Republic to the ERO. Following the publication of this plan on its website, the ERO did not receive any comments from the stakeholders during the public consultation process. The ten-year plan analyses the development of gas demand and the adequacy of the capacities of entry into and exit from the Czech Republic’s domestic zone for the period from 2013 to 2022. The TSO proceeded from the historical and foreseeable gas supply and demand in the future. Each of the investment plans was examined from the perspective of ensuring the safe operation of the gas system and gas supply reliability, and also from the perspective of environmental impacts, technologies, and economic effectiveness.

The ERO assessed, *inter alia*, compliance of the ten-year plan with TYNDP, and since it did not find any non-compliance between these two documents or any conflict with the Energy Act it approved the ten-year development plan submitted by NET4GAS, s.r.o. within the meaning of the respective provision of the Energy Act.

The projects intended to reinforce cross-border capacity and included in the ten-year development plan are the following:

- a) Expanding the interconnection between the Czech Republic and Poland, known as STORK II;
- b) Building an interconnection between the Czech transmission system and the border transfer point at Oberkappel on the German-Austrian national border;
- c) BACI ('Bidirectional Austria Czech Interconnection') gas pipeline.

As part of the *ad hoc* preparation of the first list of projects of common interest under Regulation (EC) No 347/2013 on guidelines for trans-European energy infrastructure (TEN-E), all three projects were proposed as projects of common interest. On the basis of its regulatory assessment of these projects the ERO found them relevant, and therefore endorsed their inclusion in the list of projects of common interest.

#### **4.1.5 Compliance**

The ERO pursues its mission on the basis of the provisions of the Energy Act which lay down the rights and obligations arising from the relevant provisions of the EU legislation, i.e. Directive 2009/72/EC and Regulation No 714/2009/EC. Czech legislation is fully in compliance with these EU regulations thanks to the amendments to the Energy Act and implementing regulations.

All changes to laws and regulations that the ERO carried out in 2012 were consulted with all the stakeholders. In developing and amending legislation, the ERO at all times places emphasis on the maximum transparency, non-discriminatory approach and elimination of negative impacts on the Czech gas market.

From the perspective of access to the gas infrastructure, in 2012 the ERO significantly amended the Gas Market Rules. These changes also included modifications to the rules of access to underground gas storage facilities for foreign natural and juristic persons that are not subject to clearing.

In accordance with its authorisation under the Energy Act, the ERO also promulgated a completely new public notice, no. 30/2012, on the essentials of applications for the approval of the appointment, election or other installation in office and dismissal of the bodies of the ITO. The ERO also promulgated a new public notice, no. 59/2012, on regulatory reporting, which lays down the essentials and structure of regulatory reports, including their model forms, depreciation rates for regulatory purposes, rules for preparing regulatory reports and time limits for their submission.

The Ministry of Industry and Trade (MIT) contributed to the development of new laws and regulations related to the gas industry in 2012; under the Energy Act, the MIT promulgated three statutory instruments influencing the gas market: public notice no. 344/2012 on emergencies in the gas industry and methods of providing for the security standard of gas supply, public notice no. 345/2012 the dispatch control rules in the gas system and data transmission for dispatch control, and public notice no. 452/2012 on the essentials of applications for the award, amendment, extension and revocation of authorisations for the

construction of certain gas installations, including model application forms, and conditions for assessing such applications.

## **4.2 Promoting competition**

### **4.2.1 Wholesale markets**

#### **4.2.1.1 Monitoring the level of prices, the level of transparency, and the level and effectiveness of market opening and competition**

In 2012, a total of 25 entities imported gas into the Czech Republic. Some of the companies re-exported the gas again. The largest quantities of gas were imported by RWE Transgas, a.s., WINGAS GmbH & Co. KG and VNG Energie Czech s.r.o.

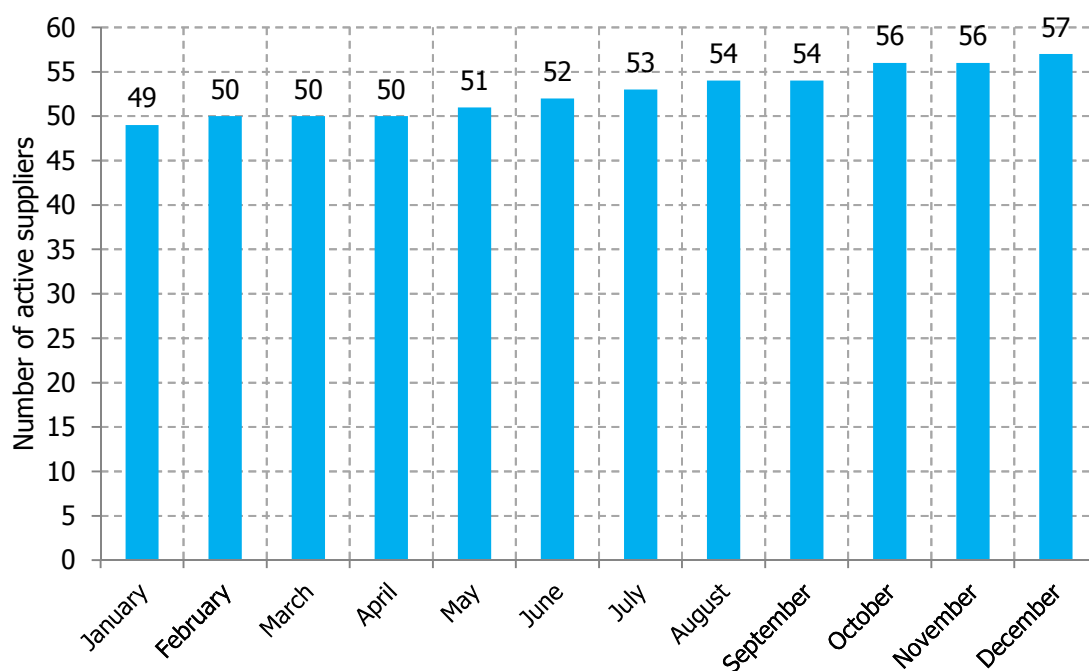
In 2012, suppliers bought gas under long-term contracts with Russian and Norwegian producers, at European energy exchanges, or by reselling gas to one another on the Czech market. Under long-term contracts the gas price is derived from the prices of oil products (gas oil and heavy fuel oil) and hard coal. In 2012, the price of the gas so procured was more stable and a more moderate price growth was registered than in the preceding year. In the case of energy exchanges, the year, especially its last quarter, saw a slight price hike caused by an increased demand for the commodity at the beginning of the heating season. A marked rise in spot prices was also visible in February 2012 when the demand was unusually keen due to the strong freeze. The CZK/EUR and CZK/USD rates also influenced the price of gas imported from abroad during 2012. In this respect, the ERO did not carry out any checks in 2012. In order to ensure the integrity and transparency of wholesale energy markets, with a view to fostering open and fair competition for the benefit of final consumers of energy, the ERO set up a REMIT Department in 2012.

### **4.2.2 Retail market**

#### **4.2.2.1 Monitoring the level of prices, the level of transparency, and the level and effectiveness of market opening and competition**

In 2012, the ERO registered 57 active suppliers in the retail gas market, who offered their services to customers. Some entities supplied gas only in a part of the year, or only to some customer categories. Although the number of active suppliers rose compared with 2011, the market already shows the signs of saturation and the number of traders is not expected to continue to increase in any significant way. Competitive fight grew keener between alternative suppliers. In 2012, one entity was compelled to fold due to loss of ability to supply gas to customers. The development in the number of active gas suppliers in 2012 is shown in Chart 8. A trader who actually delivered, in the respective month, gas to customers who consume and do not resell the gas is regarded as an active trader.

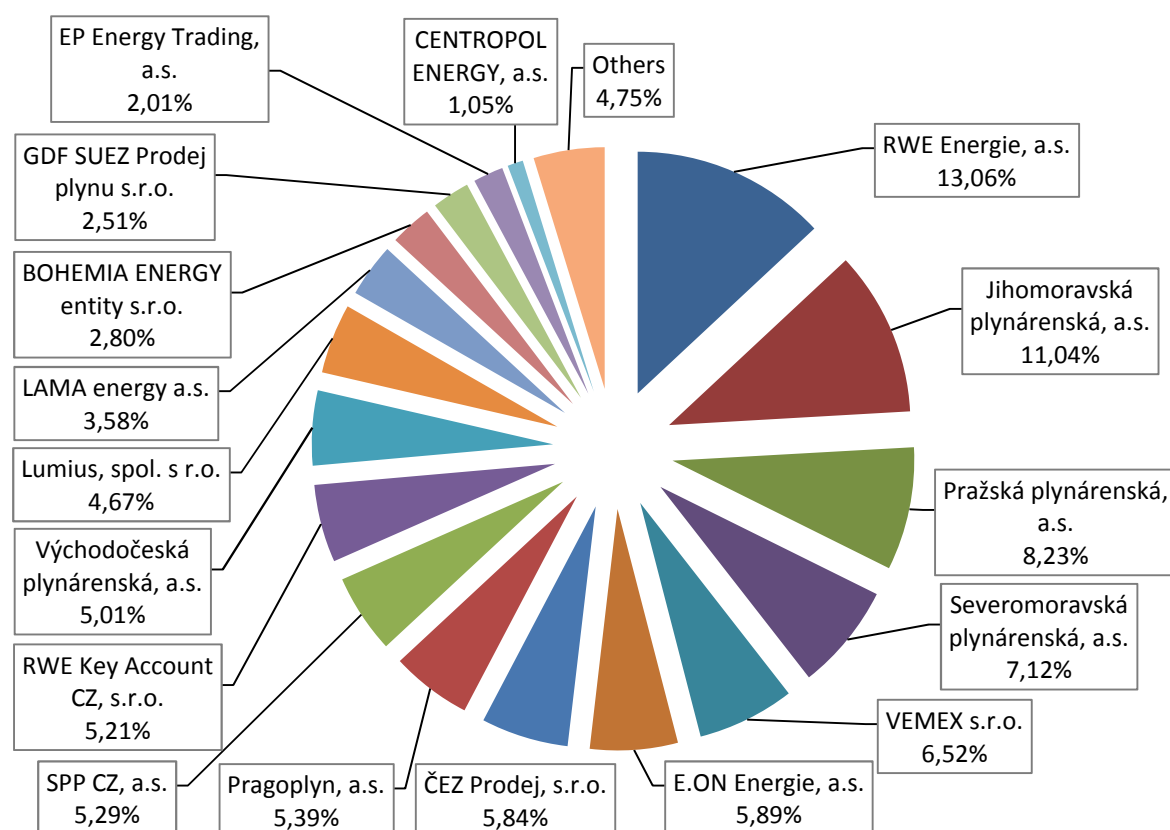
**Chart 8 Development of the number of active suppliers in 2012**



Source: ERO

The RWE Group's traders supplied the largest quantity of gas to customers in 2012. Their share of the total quantity of gas consumed in the Czech Republic was 41.5 per cent. With its 8.2 per cent, Pražská plynárenská, a.s. supplied the second largest quantity, followed by VEMEX, s.r.o. with a share of 6.5 per cent of total supply. Traders' shares of gas supply in 2012 are shown in Chart 9.

**Chart 9 Traders' shares of gas supply in 2012**



Source: ERO

The largest customer category is households, of which 2,656,685 were registered in 2012, followed by the small business category with 202,807 customers, medium-sized demand category with 6,939 customers, and high-demand category with 1,652 customers. Compared with 2011, a total of 940 gas supply points were lost. In the year under review, a total of 2,868,083 gas supply points were registered.

The number of supplier switches on the part of customers was slightly smaller in 2012 (down by 3.8 per cent) than in 2011, and customers' migration away from the large incumbents was not so massive. Alternative traders also started to vie for other smaller suppliers' customers. On 2012, customers changed their gas supplier for 348,056 supply points, i.e. 12.1 per cent of the total number of supply points.

The strongest migration was registered in the segment of small businesses and households. In 2012, 344,126 supplier switches were registered in these categories, which accounted for 98.9 per cent of the total number of supplier switches in the country.

In the medium-sized demand category, 2,951 customers selected a new gas supplier for 2012, accounting for 42.5 per cent of their total number. In the high-demand category, 979 customers changed their supplier, i.e. 59.3 per cent of these customers.

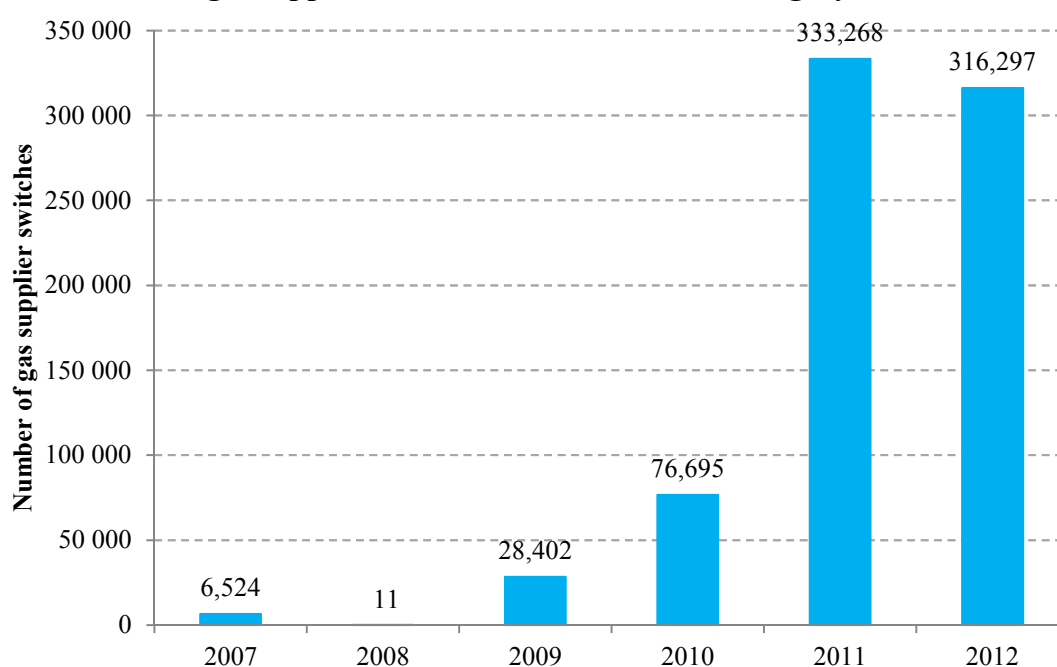
In 2012, the single largest number of supplier switches in the low-demand business, medium-sized demand and high-demand categories took place in January. The reason is that these customers often have gas supply agreements in place for a calendar year and in January enter into new agreements for the following year with suppliers of their choice. Table 2 provides a clear overview of the number of supplier switches. The number of supplier switches since the start of the gas market liberalisation can be seen in Chart 10.

**Table 2 Customers' gas supplier switches**

| Type of demand      | 2011                        | 2012                        | 2012                          | 2012          |
|---------------------|-----------------------------|-----------------------------|-------------------------------|---------------|
|                     | Number of supplier switches | Number of supplier switches | Total number of supply points | Switching (%) |
| High demand         | 537                         | 979                         | 1,652                         | 59.3          |
| Medium-sized demand | 1,142                       | 2,951                       | 6,939                         | 42.5          |
| Low demand          | 26,994                      | 27,829                      | 202,807                       | 13.7          |
| Households          | 333,268                     | 316,297                     | 2,656,685                     | 11.9          |
| Total               | 361,941                     | 348,056                     | 2,868,083                     | 12.1          |

Source: ERO

**Chart 7: Annual gas supplier switches in the household category**



Source: ERO

Prices of the gas supplied to the Czech Republic under long-term contracts were stable in 2012. Because of the strong competitive pressures, the increase in spot market prices was not reflected in retail prices, which remained very stable throughout the year. Price lists were changed less frequently than in preceding years. For clarity, please see Table 3.

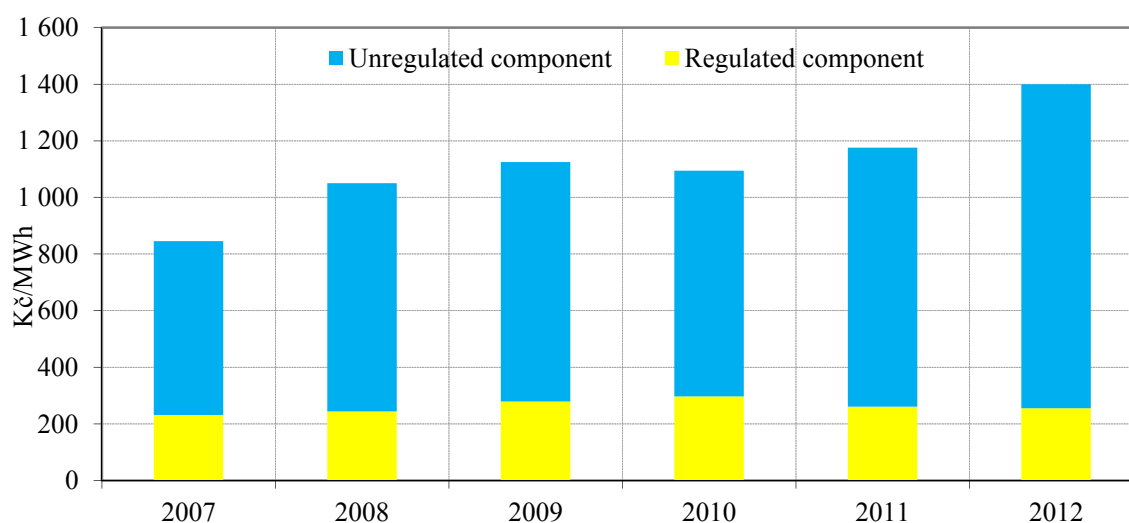
**Table 3 Prices of gas supply to customers by Eurostat categories as at the first day of a quarter in the Czech Republic in 2012, in CZK/MWh**

| 2012  | Standard consumer, Eurostat                 |               |  |               |  |               |
|-------|---|---------------|--|---------------|--|---------------|
|       | D3  |               | I1   |               | I4   |               |
|       | Households taking more than 56 MWh annually |               | Industrial customers taking less than 278 MWh annually |               | Industrial customers taking more than 277,778 MWh annually |               |
|       | CZK/MWh w/o VAT                             | CZK/MWh w VAT | CZK/MWh w/o VAT  | CZK/MWh w VAT | CZK/MWh w/o VAT  | CZK/MWh w VAT |
| I Q   | 1,339.51                                    | 1,607.41      | 1,219.44   | 1,463.33      | 772.02   | 926.42        |
| II Q  | 1,339.51                                    | 1,607.41      | 1,222.89   | 1,467.47      | 775.19   | 930.23        |
| III Q | 1,339.51                                    | 1,607.41      | 1,214.17   | 1,457.00      | 752.59   | 903.11        |
| IV Q  | 1,339.87                                    | 1,607.84      | 1,215.25   | 1,458.30      | 779.57   | 935.48        |

Source: Czech Statistical Office

The regulated component of the price has been relatively stable for a long time and does not show any major year-on-year changes. This component accounts for about one-fifth of households' total annual costs of gas supply. The unregulated component of the price depends primarily on the prices of the gas imported into the Czech Republic. In 2012, the unregulated component was stable for customers. In 2012, the increase in this component of the price, shown in Chart 11, was caused by a significant gas price hike at the end of 2011.

**Chart 11 Average regulated and unregulated components of gas supply prices for households without VAT**



Source: ERO

## Regulated parts of the price

### Gas transmission

The only transmission system operator, NET4GAS, s.r.o., continued to carry out the licensed activity of gas transmission in 2012. The ERO awards an exclusive licence for gas transmission in the Czech Republic.

The year-on-year decrease in the TSO's adjusted allowed revenues by 5.54 per cent compared with 2011 was mainly due, in the positive sense, to the correction factor for 2010 and the more than 50% reduction in the costs of the flexibility service for 2012; this service helps to balance the pressures in the Czech gas system.



## Gas distribution

The parameters for calculating the distribution charges are based on the configuration of the specific system, the required efficiency of regional distribution system operators' activities, the development of the Czech economy and the data reported by gas distribution licence holders pursuant to secondary legislation on energy. This ensures the transparency of the criteria for the regulation of distribution charges. These parameters, determining the level of the distribution charge, ensure that the distribution system operator will meet the costs of system repair and maintenance in accordance with energy legislation and generate enough money for the required investments.

The charge for gas distribution, which also includes gas transmission to the domestic point, decreased by 2.9 per cent on average in 2012 compared with 2011.

Table 4 shows average gas distribution charges, including transmission, for 2012 for selected customer categories based on their annual gas consumption, ranging from the least to the most expensive regional distribution system. The charges are in CZK/MWh and without VAT. Average charges contain both the fixed and the variable component.

**Table 7: Average distribution charges, including transmission in 2012**

| Annual demand | Charge for distribution, including transmission |             |
|---------------|---|-------------|
|               | min CZK/MWh                                     | max CZK/MWh |
| 55 to 63 MWh  | 169.94  | 266.41      |
| over 63 MWh   | 173.59  | 273.64      |

Source: ERO

In 2012, there was no need to interrupt supply in the Czech Republic due to transmission or distribution capacity shortfalls.

### Charges for the market operator's services

Under the Energy Act, as of 2012 a charge for the ERO's activities, amounting to CZK 1/MWh of gas consumed in the Czech Republic is included in the fixed price charged by OTE, a.s. for clearing and paid by customers. Compared with 2011, the fixed price for clearing increased only by the above charge. The other prices for the market operator's services, contained in the ERO's price decision, stayed at their 2011 levels.

### 4.2.3 Recommendations on supply prices, investigations and measures to promote effective competition

In accordance with Article 41 (1) (p) of Directive 2009/73/EC, and under Section 17 (7) (l) of the Energy Act, the ERO shall publish recommendations on gas pricing for households.

The final price of gas supply for households is comprised of a component regulated by the ERO and a component that the ERO does not determine (the unregulated component). The regulated items in the price serve to cover reasonable costs of the operation of the transmission system, distribution systems and the market operator. Final customers are unable to influence this part of the price by changing their service provider.

In 2007, the commercial part of the gas price (i.e. the supply of commodity and related services) was deregulated. In 2012, 57 active gas suppliers offered their products and services on the fully liberalised Czech market. Wholesale and retail gas markets are fully functional thanks to the well-developed competitive environment. Competition between the various traders influences the price for gas supply, which is favourable for consumers. By selecting a

suitable supplier customers can achieve better prices and terms of supply. The unregulated part of the market does not currently require the ERO's interference with pricing.

The various offers markedly differ as to prices, terms of supply and other services. Suppliers can structure prices as they may decide, into a variable component related to the gas quantity taken and a fixed component which is usually expressed in CZK/month. In general, products the fixed part of which is as low as possible are suitable for customers with a very low demand, who use gas mainly for cooking. In this group of customers the standing monthly charge constitutes a rather significant share of costs. On the other hand for customers who also use gas for water and space heating and have a higher consumption, the price of the supplied gas is more important (CZK/MWh). However, customers should always take into account the specific conditions of their supply point when selecting their supplier, and they should thoroughly study the structure of the price and other contractual conditions for supply.

### **Checks**

In the gas industry, the ERO's checks primarily focused on gas traders' practices in arrangements for gas supplier switching and their performance under agreements in place; the ERO also supervised adherence to the quality standards for supply and services in the gas industry, together with checking the technical condition of equipment through which gas is supplied to final customers, and adherence to the principles set for the gas market, including the required particulars of agreements on gas supply and distribution. A special area of oversight in the gas industry included checks of the responsibilities of owners of properties into which gas is supplied for customers in the properties, which were made to see whether shared consuming equipment serving for gas supply was maintained in a condition consistent with legislation, technical standards and technical rules facilitating safe and reliable gas supply, to prevent such equipment from causing a risk to life, health or property.

The Office also carried out (on the basis of suggestions from the outside, contained in consumers' submissions) checks specifically focused on licence holders' obligation to provide, when offering and selling gas to consumers, complete information enabling consumers to know the final offering price (covering all taxes, customs duties and charges) prior to executing an agreement on bundled services of gas supply, and on the obligations related to the timely publication of changes in gas supply prices.

## **5 Consumer protection and dispute settlement in electricity and gas**

### **5.1 Consumer protection**

The Czech Republic had earlier empowered consumers to a greater extent, broadening their rights with a view to ensuring a high level of consumer protection, in particular as regards the transparency of contractual terms and conditions, general information and easier process of supplier switching, primarily through the provisions contained in Section 11a of the Energy Act which transposes Article 3 (7) of Directive 2009/72/EC and Article 3 (3) of Directive 2009/73/EC, taken together with Annex I, into the national law.

In view of the above, and in respect of consumer protection, Section 11a of the Energy Act establishes certain rights for consumers and imposes matching obligations on traders. Under this Section, traders shall publish, in a manner allowing remote access, their terms and conditions of electricity and gas supply and electricity and gas supply prices no later than 30 days before the day of effect of changes. Section 11a of the Energy Act also requires traders to offer consumers a choice of non-discriminatory systems of payment for gas or electricity supplied and in respect of the billing of prepayments for gas or electricity supply, traders are required to set prepayments reflecting consumption for the preceding comparable billing period, however, no more than justifiably expected consumption of gas or electricity for the following billing period. As regards consumers' rights, this Section also establishes customers' right to withdraw from the contract without any contract penalty in the case of their disagreement with a change to the contract terms and conditions, or an increase in the unregulated part of the price for gas or electricity supply, and sets out the time limits for exercising the right to withdraw from the contract and the effect of such withdrawal. In its valid and effective wording, the Energy Act does not define 'vulnerable customer'; as regards customers who can be regarded as 'socially disadvantaged', certain measures for their protection and support for their rights are provided for at the level of generally applicable legislation in the domain of social security law.

Another aspect conducive to improved protection is customers' ability to access objective and transparent information about their consumption of energies, the related prices, and the costs of services.

The ERO is authorised, for the purpose of securing consumers' justifiable interests in connection with their right to be properly informed of their energy consumption, under Section 98a (2) (j) of the Energy Act to lay down the essential particulars of the billing of electricity, gas and thermal energy supply and related services in an implementing regulation. On the basis of this authorisation the ERO had earlier promulgated public notice no. 210/2011 on the scope, essentials and dates of the billing of electricity, gas and thermal energy supply and related services.

In connection with the broadening of legislation on consumer protection, the ERO had earlier set up a Consumer Protection Unit tasked with receiving and addressing submissions, questions, suggestions and complaints from customers.

Furthermore, under Section 17 (7) (l) and (q) of the Energy Act, the ERO publishes recommendations in relation to gas and electricity supply prices for households and cooperates with civic associations and other juristic persons established for the purpose of protecting consumer rights in the energy sector.

## 5.2 Dispute settlement

As part of its competences, the ERO primarily protects customers' and consumers' justifiable interests in the energy industries.

The ERO's power to adjudicate such disputes arises from Article 3 (7) of Directive 2009/72/EC (and similarly under Article 3 (3) of Directive 2009/73/EC), under which Member States shall ensure high levels of consumer protection also with regard to dispute settlement mechanisms.

In this connection, the respective provisions of Directive 2009/72/EC and Directive 2009/73/EC, taken together with Annex I, had earlier been transposed into the respective provisions of the Energy Act through the amendment to the Energy Act enacted in Act No. 211/2011.

Under Section 17 (7) (e) of the Energy Act, the ERO shall adjudicate disputes between customers and licence holders ('customer disputes'), i.e. disputes over the performance of obligations under contracts, the subject matter of which is gas supply/distribution, disputes seeking a declaration of whether or not a legal relationship between the customer and the holder of a licence for electricity or gas supply/distribution has come into existence, continues to exist, or has ceased to exist, and also disputes over compensation for failure to keep the set quality standards for supply and services in the gas industry.

Under these provisions, the necessary precondition for instituting proceedings before the ERO (within the limits of its jurisdiction *in rem*) on consumer disputes is the customer's motion, and such motion is also the only possible means of instituting proceedings (the procedural principle of a final disposal of the matter [*as the parties may wish to settle it*]). Thus, it is for the benefit of customers that they enjoy the discretion to decide whether they will undertake court proceedings on the matter at issue and bring an action before a court, or whether they will resort to the ERO with a motion for the adjudication of the dispute over the matter.

Under Section 17 (7) (f) of the Energy Act the ERO is also competent to carry out checks and inspections in the energy industries, and supervision over the performance of the duties laid down by the law on consumer protection in respect of business in energy industries (use of unfair business practices, prohibition of discrimination of consumers, and performance of the duties related to providing consumers with information about prices for provided services).