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middle: the case of state-owned natural
gas intermediaries in Bulgaria

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'Standing in the way by standing in the middle: the case of state-owned natural gas intermediaries in Bulgaria'

Ralitsa Petrova Hiteva¹ and Tomas Maltby²

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Abstract: Bulgaria is a significant natural gas transit state in the EU (a role set to increase with the South Stream and potential Nabucco West gas pipelines) and a Member State subject to EU regulation. As a result, the regulation of natural gas in the country is of direct relevance to the development, implementation and realisation of EU energy security policy. However, the transposition of the EU's Third Energy package seem to be dependent on the role of intermediaries in the process of transiting natural gas through and within Bulgaria. This paper uses a conceptual frame which merges literature on energy infrastructure networks, intermediaries and power to explain some key problems for natural gas supply policy in Bulgaria and the lack of transparency within the sector. The conclusion offers an explanation of how the existence of Bulgarian intermediaries influences the use of national natural gas pipelines as transmission belts for national, Russian and EU policy, as well as a series of objectives including: increasing household gasification, further liberalisation of the Bulgarian natural gas market and increasing transparency in Bulgarian energy policy.

Keywords: Bulgarian energy policy; EU energy policy; Overgas; Bulgargaz; Bulgartransgaz; natural gas intermediaries; EU energy market liberalisation.

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1. Introduction:

This paper explores the role of Bulgarian intermediaries in refracting the use of the natural gas transit pipeline as a transmission belt for Bulgarian state, Russian state and EU policy objectives, investigating the way state intermediaries operate and work with others to produce specific geometries of power and affect policy. The paper offers insights into state intermediaries, the flow of patterns of resources and the effect on policy by intermediaries. In doing so it constructs a more thorough understanding of energy policy in Bulgaria, and Europe. With approximately one third of EU gas imports currently sourced from Russia (Eurostat, 2014) and total technical capacity for natural gas transit transmission through Bulgaria of 18.7bcm p.a. (Bulgartransgaz, 2014), the regulation of natural gas in Bulgaria is of direct relevance to the implementation of EU energy policy. The paper explores the influence of two specific Bulgarian intermediaries (Bulgargaz and Bulgartransgaz) on achieving a series of key objectives for Bulgarian state, EU and Russian state policy, including: increasing household gasification; further liberalisation of the Bulgarian natural gas market; and increasing transparency in Bulgarian energy policy.

The EU's Energy Roadmap 2050 (European Commission, 2011b) sets out the objectives of a significant role for natural gas as a transition fuel, diversification of natural gas imports and the full liberalisation of the natural gas market (further discussed in section 3.1). However, in Bulgaria there have been significant delays in: 1) diversifying natural gas imports; 2) the full liberalisation of the internal market; 3) transposition of EU legislation; and 4) increasing the very low levels of residential gasification. These delays have resulted from problems in the implementation of the Bulgarian national energy policy caused by the presence and operation of a set of Bulgarian state-owned natural gas intermediaries.

The explanation for these delays is that the natural gas pipeline system of Bulgaria is a key space of power resistance and domination between stakeholders. Intermediaries are defined by Moss et al (2011) as organisations strategically located in-between regulators and regulated public and private actors, or sets of different societal interests. Although intermediaries may mediate or facilitate between groups of actors they are never neutral in dealing with others and are capable to translate, redefine and fundamentally change what they transport (Moss et al, 2011; Latour, 1993). In this paper, we argue that the existence of state-owned companies Bulgargaz and Bulgartransgaz – as intermediaries in the transportation of natural gas through and within the country – has undermined the meaningful transposition and implementation of EU legislation, as well as the stated government objective within the Bulgarian energy strategies of 2008³ and 2011 of significantly increasing residential gasification (Bulgarian Government, 2008: 16, 52; 2011: 11).

Although the timely and successful transposition of the EU third energy package in Bulgaria is in the interest of Overgas Inc. (a Gazprom joint stock company which would

³ Draft.

receive access to Bulgargaz's pipelines and increase the number of its residential consumers) the sole ownership and management of the national pipeline infrastructure is a stronghold for the interests of the Bulgarian state. Despite intermediaries' power to undermine state policies, relinquishing control over the pipelines would introduce a number of powerful competitors for the state-owned Bulgargaz and Bulgartransgaz.

By focusing on the impact of state-owned intermediaries in natural gas transportation and distribution on the competing interests of Bulgarian state policy, Russian state interests (represented by Gazprom's proxy in Bulgaria, Overgas Inc.⁴) and the EU, the paper aims to explain the unique situation of the Bulgarian natural gas sector and to introduce another type of intermediary⁵ in the natural gas supply chain. The paper focuses on examining the role of state-owned intermediaries positioned between upstream (domestic producers like Melrose Resources and the main natural gas importer, Gazprom Export) and downstream companies (gas distribution companies like Overgas Inc.). In doing so the research engages with literature on the transformation of the Bulgarian state and state capture (Ganev, 2007; Barnes, 2007; Noutcheva and Bechev, 2008; Andreev, 2009), Bulgarian energy policy (Kovacevic, A. 2009; Silve, F. and Noël, 2010; Tchalakov et. al., 2011; Center for the Study of Democracy, 2010; Stefanov et al, 2011) and Balmaceda's work on energy intermediaries in Lithuania (Balmaceda, 2008).

The paper is structured as follows: the first section develops an understanding of the concept of intermediaries and the nexus between energy infrastructure networks, intermediaries and power. The second section offers an overview of the conditions of natural gas supply in Bulgaria, while the third section outlines the differences in interests between the four key actors. Section four focuses on explaining the ensuing problems within Bulgarian natural gas policy. The paper concludes by explaining the role of Bulgarian intermediaries in refracting the use of the natural gas transit pipeline as a transmission belt for Bulgarian state, Russian state and EU policy objectives (specifically, the increase of household gasification, full liberalisation of the Bulgarian natural gas market and increasing the level of transparency in energy policy in Bulgaria).

⁴ As explained in section 4.4 Overgas Inc is a private company, jointly owned by the Bulgarian Overgas Holding (50%), Gazprom (0.49%) and GazpromExport (49.51%) (Overgas, 2013b; Gazprom Export, 2013) and as such is considered to be representative of Gazprom's main objectives of increasing its natural gas volume in Europe (Locatelli, 2008). Since the Russian state has a 50% controlling stake in Gazprom, we argue that Overgas Inc is representative of the interests of the Russian state with regards to natural gas supply to the EU (Gazprom, 2014).

⁵ Most discussions of intermediaries in natural gas transit refer to midstream "independent" companies with exclusive contracts to buy natural gas straight from suppliers like Gazprom and resell it at a higher price to companies like Bulgargaz. Often such companies are closely linked to, or are straightforward subsidiaries of the upstream company (Ivanova, 2012).

2. Gatekeeping energy infrastructure networks

2.1. Intermediaries

The term 'intermediaries' is used to describe individuals, organisations, networks, institutions, processes or organisations strategically located in-between regulators and regulated, public and private actors, or sets of different social interests (Moss et al., 2011), where existing boundaries between stakeholders are being eroded or redefined (Healey et al., 2002; Beveridge and Guy, 2011). Intermediaries can work to facilitate, coordinate, make connections and mediate disputes to enable relationships between different groups of actors. They work by forming a range of (formal and informal) networks and coalitions, following a specific order and/or hierarchy of interests and actors, thus creating new forms of interdependencies and socio-technical assemblages (Medd and Marvin, 2011). By doing so, they are enabling the use of energy infrastructure networks as transmission belts for actors' interests. However, intermediaries can work *against* as well as *with*, stalling change and contributing to system obduracy (Moss et al., 2011: 8; Paddison, 2003; van Lente et al., 2003). Randles and Mander (2011) discuss the ability of some intermediaries to 'gate-keep' within a system, i.e. to maintain a strategic position within a supply chain in order to block access of new actors to that system, by exercising control over access points to products and services, so as to maintain existing market structure in the interest of incumbents.

The role of intermediaries is not neutral (Moss et al., 2011). They translate and redefine what they convey between stakeholders (Latour, 1993). By translating between sets of actors and interests, intermediaries redefine and reframe, pursuing their own agendas and creating new realities and meanings. Therefore, intermediaries embedded within natural gas infrastructure in Bulgaria possess a degree of independence from the interests they are meant to represent and are capable of changing them. This degree of independence suggests that their interests, as natural gas intermediaries, constitute a distinguishable set of interests from those of the Bulgarian state and other supply chain actors (for example, distribution companies).

Sometimes intermediaries operate strategically so that they can support a particular socio-technical infrastructure and configuration of power. Marvin et al. (2011) argue that in the context of fragmented infrastructure which is subject to multiple competing agendas, intermediaries are able to strategically reconfigure relations between different system actors and components in order to advance particular interests. By virtue of their strategic position in-between competing interests, between the private and the public, and between regulators and regulated, intermediaries can 'produce an outcome that would not have been possible, or as effective, without their involvement' (Marvin and Medd, 2004: 84-85).

2.2. Energy infrastructure networks and geometries of power

Networked energy infrastructures such as natural gas transportation pipelines are capable of unevenly binding spaces together across cities, regions, nations, and

international boundaries, creating in the process specific material and social dynamics within and between these spaces (Amin and Graham, 1998). Energy infrastructure networks interconnect (parts of) these spaces and mediate the multiple connections and disconnections within and between them (Graham and Marvin, 2001). As infrastructure networks embody what Bijker (1993) calls 'congealed social interests', they can be used by institutions, companies, individuals and the state to extend their influence in time and space beyond the 'here' and 'now' (Curry, 1998: 103), thus sustaining specific 'socio-technical geometries of power' (Massey, 1993). This means that infrastructure networks, as constructed geographies of connection and continued flow for some, could at the same time represent geographies of disconnection and barriers for others. This contingency of infrastructure networks configurations is borne out of biased struggles for social, economic and political power seeking to be connected and affirmed (Star, 1999).

Furthermore, energy infrastructure can act as a 'transmission belt' for national policies (Brenner, 1998: 475). Due to the long-term capital investment required for its construction, energy infrastructure represents a form of immovable 'sunk' capital (Graham and Marvin, 2001), where national policy finds material expression and can be said to be physically embedded.

Thus, nation states, power and infrastructure networks are intimately connected through the materially embedded grids within national territories. In the case discussed here, this means that powerful links exist between the Bulgarian state and natural gas infrastructure (such as transmission pipelines) built and/or controlled by the state or state-owned actors. The linked production and maintenance of fixed infrastructure networks, such as natural gas pipelines, is permeated by struggles between actors, institutions and companies with varying social, economic, and political power. The infrastructure networks linking producers, traders and distributors of natural gas in Bulgaria are, in fact, dynamic processes only temporarily stabilised, requiring continuous effort to be maintained. This is done by maintaining the links between the key nodes of these networks: the different points of connection, production, transformation and consumption. Thus infrastructure networks can be understood as large assemblages of social and technical actors and interdependencies, producing specific 'geographies of enablement and constraint' (Law and Bijker, 1992: 301), 'connection, dependency and control', as well as 'choke points' (Bridge et al., 2013: 333).

The different stages of the processes of privatisation, deregulation and unbundling of energy infrastructure proceed at varying paces and include intermediary stages of infrastructural restructuring depending on the particular national contexts of transition and the characteristics of the infrastructure network such as institutional and regulatory capacity. The first stages of infrastructural restructuring do not always automatically mean a move towards competitive markets and para-statal organisations can play a significant role in the process of transition. Para-statal organisations are usually owned and controlled by the state, and although they are designed to run like

commercial companies, they often receive government subsidies to fund capital expenditure, and operate independently of market incentives (Kessides, 1993).

The changing ownership of infrastructure due to the processes of privatisation and unbundling have introduced a range of new actors, creating complex interface spaces between users, providers and regulators (Jessop, 1995; Brenner, 1999). Such structural changes could lead to multiplication of actors and also 'power centres and scales at which decision-making is exercised' to 'the local, national, European and international scale' (Kaika, 2003: 302). In the case of Bulgaria, energy policy has transformed from a fairly coherent Soviet controlled national arena in 1989 to an array of decision-making and power centres simultaneously located at the national, European and Russian spheres (by virtue of a transit and import monopoly in gas).⁶ Along with the diminishing role of the state, Pickles and Jenkins note that '[p]rivatisation and the growth of non-state economic actors have transformed exchange relations' (2009: 9). All these processes are creating a need for the introduction of intermediaries to 1) manage the relations within this triad of actors and everyone else; and to 2) ensure interconnectedness and a flow of information, knowledge and natural gas through the energy infrastructure networks (Graham and Marvin, 2001).

Energy infrastructure networks reflect and reinforce existing geographies of power concentrated within specific nodes and places (Warf, 2009). Natural gas pipelines reflect the powerful vested interests of state and capital, thus making them 'power geometries', through which power is continuously reproduced. This allows us to consider natural gas infrastructure in Bulgaria as a series of sites 'where the social structures and relations of power, domination and resistance are interwoven' (Sharp et al., 2000: 26).

3. The geography of natural gas

3.1. Why natural gas matters to the EU

EU dependency on energy imports increased from less than 40% of gross energy consumption in the 1980s to 54% by 2011 (Eurostat, 2013). Natural gas import dependency is 67% (Eurostat, 2013) and is predicted to increase to 80% by 2030 (BP, 2012), due to incrementally-increasing EU gas demand and declining EU gas production (European Commission, 2011b: 11-12). The importance of natural gas for the energy security of Member States is also increasing, with the push for intermittent renewable sources such as wind and solar under the EU's 2020 targets, because of its energy efficiency levels, fast fire-up rate and relative flexibility in terms of location.

High levels of dependency on Russian energy imports have become a key concern for the EU due to gas supply disruptions and the increasing oil-indexed prices of gas

⁶One might also argue that the local is becoming increasingly important after environmental campaigners succeeded in a moratorium on shale gas exploration in the country in January 2012 (Reuters, 2012).

imports from Russia⁷ and the gas supply ‘crises’ of January 2006, March 2008 and January 2009 (BBC, 2006; Womack, 2009; Pirani et al., 2009), when Russia’s disputes with transit countries over payments disrupted the flow of natural gas to Europe. Since 2009 in particular, dependency on Russian gas has become politicised and securitised at the EU level (Maltby, 2013).

In September 2009 the European Council adopted legislation to mitigate the consequences of potential disruptions to supplies collectively known as the Third Energy Package. It included directives concerning the internal markets in electricity (No. 72) and natural gas (No. 73) (European Parliament and Council, 2009a; 2009b). Further legislation (Regulation 715/2009), concerned preventing the discrimination against third party access (by companies such as Overgas) to natural gas transmission networks which are owned in the case of Bulgaria by Bulgartransgaz (European Parliament and Council, 2009c). Thus, Bulgaria’s natural gas system and infrastructure landscapes increasingly depend on decisions made outside the country, in Brussels and Moscow, a process Bridge et al. (2013: 336) call a re-territorialisation of national energy infrastructure.

3.2. Natural gas in Bulgaria

Communist central planning purposely led Bulgaria, as well as most of the countries in Comecon⁸, to become heavily reliant on energy imports from Russia. The created dependence was a way of embedding Russian political power in the region. As Bouzarovski (2009: 455) explains, energy transmission infrastructures were constructed in such a way so as to allow centripetal links between the Soviet Union (especially Russia) and the Comecon states, rather than multilateral connections between the latter. Such divisions were reinforced by the spatial distribution of oil and gas pipelines, which played a major symbolic role in the spatial reproduction of and ‘rolling out’ of Soviet power across the region; the main socio-technical ‘threads’ that would bind the vast territory of the Soviet Union and its satellite states into a coherent whole. By the 1980s, 90% of Bulgaria’s oil and gas was imported from the USSR and Katsikas claims that by the mid-1990s, Russian officials were permitted ‘to interfere in Bulgaria’s politics to achieve certain political and economic goals’ (2012: 146-7).

In 2011, 86% of natural gas used in Bulgaria was imported from Russia (Eurostat, 2013) and Russian foreign policy is still considered to flow through European pipelines (Bouzarovski, 2010: 175-176), particularly when asymmetrical leverage is the case, as with the gas trade relationship between Bulgaria and Russia. Since 1974, Russia has delivered over 154.81 bcm of gas to Bulgaria (Gazprom Export, 2013). Bouzarovski and Bassin argued that exploiting energy resources and exports are key to Russia’s goal of restoring the country’s ‘global status as a derzhava or Great Power’ (Bouzarovski and Bassin, 2011: 788) and, in 2011, exports to the EU by Gazprom were 150bcm, of which

⁷ For example, in October 2003 the Russian Natural Gas border price in Germany (in US Dollars per Thousand Cubic Meters) was 134.28 - this had increased to 407.69 in October 2013, after reaching 16.02 in October 2008 (IMF, 2013).

⁸ Council for Mutual Economic Assistance – a trade organisation for Communist countries - from 1949-1991.

exports to Bulgaria are 2.8bcm or 2% of Gazprom's EU exports. This is almost identical to neighbouring Greece (2.9bcm) and Romania (2.8bcm), but in comparison, Germany represents 23% of Gazprom's exports (34bcm) and Poland 7% (10.25bcm) (Gazprom, 2013). Despite being a small market for imports, 10% (15.1bcm) of Russian gas exports to Europe in 2011 transited through Bulgaria's territory (Bulgartransgaz, 2012).

Despite being formally unbundled, the production and transportation of natural gas are still controlled by the large integrated utilities that grew out of the former state monopoly, resulting in a complex patchwork of public and private ownership (Bouzarovski, 2009). Governing the natural gas supply system in Bulgaria is an area of contestation between governance based on market forces and institutions, and 'state centred, power-based geopolitics' – i.e. state capture (Westphal, 2006: 58). This is partially due to the specific socio-political and cultural context of energy governance in Bulgaria. By the end of the 1980s Noutcheva and Bechev claimed that, 'the state was captured not only from above (by the communist leadership) but also from below (by societal networks), which seriously constrained its policy-making and implementation capacity' (Noutcheva and Bechev, 2008: 128; also Adreev, 2009: 389). Former communist elites were well positioned to gain from the market transition in the 1990s and rapid privatisation was a catalyst for further state capture by 'private economic actors' (Barnes, 2007: 71; Ganev, 2007). This legacy 'considerably slowed down vital reforms' (Noutcheva and Bechev, 2008: 128; also Adreev, 2009: 389).

One governance practice which facilitates and illustrates the level of state capture in the Bulgarian energy sector is the rotation of selected energy experts within the Bulgarian legislative, regulatory, administrative and financial bodies involved in the natural gas sector in the country. Natural gas experts often have life-long careers rotating (2-5 years) between working at Bulgaria's natural gas regulatory commission (SEWRC), the Ministry of Energy, the state-owned single transportation operator (Bulgartransgaz), the sole state-owned importer and distributor (Bulgargaz) and the Bulgarian Energy Holding (interviews 6; 7; 8, 2011). This practice facilitates maintaining strong ties between these different actors and institutions, and contributes towards presenting a united front (so one institution is very rarely 'seen' criticising another) and making allowances for their failure to perform (interview 12, 2011). This circulation of elites maintains a 'closed circle of energy experts' in Bulgaria (CSD, 2010: 31), who have a disproportionate influence on state energy policy-making. The circulation of a small number of energy elites (Tchhalakov et. al., 2011: 12) facilitates a high level of convergence between these key actors and undermines the implementation of EU and national policy.

The transit and supply contractual relationships and negotiations between Bulgaria and Gazprom have been complex and dynamic, with both countries struggling to balance between the past concessions about price and volumes, and objectives about transit fees and market share. Significantly, in 1996 Gazprom Export and Bulgargaz signed a memorandum extending the existing transit contract for natural gas through the

territory of Bulgaria to third countries till 2030 (Gazprom Export, 2013). The memorandum maintained the volume of transit gas at 17.8bcm p.a. However, in 2012, Gazprom Export and Bulgargaz signed a direct long-term contract for natural gas delivery, which provides for the delivery of up to 2.9bcm of gas annually till the end of 2022 (Gazprom Export, 2013). The contract removed the middlemen in the natural gas supply to Bulgaria: Overgas, a 50% Gazprom owned gas trading company and WIEE - a Gazprom-Wintershall joint venture (MEET, 2012). Thus the natural gas from Russia is now supplied exclusively by Gazprom and purchased exclusively by Bulgargaz, via one pipeline as shown in Figure 1 below (Bulgargaz, 2013). Once it reaches the Bulgarian border, the natural gas starts flowing through Bulgartransgaz’s pipelines until it reaches municipal borders (see Figure 1).



Figure 1. Map of the Bulgarian natural gas pipeline network, which denotes areas with no access to natural gas

4. The divergent preferences of actors in the EU gas market: Explaining delays in Bulgarian transposition of EU gas legislation

To date, Bulgaria has experienced significant delays in the transposition of EU natural gas legislation, in particular the Second and Third Energy Packages (European Commission, 2007). In 2011 the European Commission reasserted its vision that full third-party access to gas pipelines should be implemented and supply sources diversified in view of high dependence on imports from Russia (European Commission, 2011a).

In November 2012 a Commission report (European Commission, 2012c) stated that there was only ‘partial transposition of the Third Energy Package Directives’ and one infringement procedure still open on the Second Energy Package.⁹ For the Third Energy Package, the Commission opened infringement procedures for gas in September 2011, followed by a ‘Reasoned Opinion’ in February 2012 and a referral to the Court of Justice in January 2013, proposing a daily penalty of €8500, or €3.1million p.a. (European Commission, 2013).

These delays can be explained by the divergence of interest of four key actors – the Bulgarian state, the EU, the Russian state and its proxy in Bulgaria Overgas Inc, and the state owned intermediaries Bulgargaz and Bulgartransgaz. These different interests are derived from perceptions of energy security and economic gain that are at odds with one another. Definitions of energy security vary - both the EU and Bulgaria prioritise reliability of supplies, prices through supply diversification and environmental sustainability (Commission, 2011b; Bulgarian Government, 2011: 21). Meanwhile, the Russian state focuses more on security of demand, reflecting its role as an energy exporter (Russian Government, 2011).

Actors	Preferences/Interests	Strategies
EU	Liberalisation and increased competition of the natural gas pipelines	Legislation (3 rd Energy Package)
Russian state/ Gazprom/ Overgas	Access to Bulgargaz and Bulgartransgaz’ pipelines	Leverage through infrastructure ownership and supporting EU legislation
Bulgarian state	To maintain strategic position of intermediaries; increase the level of household gasification; and implement the EU liberalisation packages	Prioritize maintaining the status quo and keep close ties with the regulator, Bulgargaz and Bulgartransgaz
Bulgargaz and Bulgartransgaz	To keep their strategic position and control over natural gas infrastructure	Use its strategic position and close relationship with the regulator and the state to block change to the status quo

Table 1. Actor interests regarding the natural gas supply within Bulgaria

4.1. The EU

The EU is seeking increased security of supply through: 1) an interconnected internal market and 2) reliability of pricing through increased competition within the internal market. The Energy Policy for Europe (Council, 2007) established that the main objectives were those of competitiveness, sustainability and security of supply. Energy security is to be achieved through diversifying energy sources and the provision of '[r]eliable energy supplies at reasonable prices for businesses and consumers' (European Commission, 2012d). Meeting the objectives of reliability of supplies and reduced import dependency requires an improvement of both the internal and external dimensions of security of supply. The internal element relates to an interconnected, internal energy market, energy efficiency to reduce demand and increased use of renewables.

Within the EU there is a perception that Russia also uses energy to exert political leverage from these assets to maximise income and preferential negotiation outcomes in energy and other spheres (Hulbert, 2010; interviews 1; 2; 3, 2011). To this end, the Commission was empowered by the 2010 Security of Gas Supply Regulation (994/2010) to receive information on Member State energy infrastructure investments and intergovernmental energy agreements (European Parliament and Council, 2010: Article 13) and, in specific cases, 'give an ex-ante assessment of the conformity of a future intergovernmental agreement with the EU law before such agreement is signed' for 'conformity with EU law and EU security of supply objectives' (European Commission, 2011c). In September 2012 the European Commission launched an investigation into whether sales of Russian gas by Gazprom in Eastern Europe, including Bulgaria, were anti-competitive and whether there was abuse by Gazprom of its dominant market position (Europa, 2012a).¹⁰

Increasing competition and moving closer to a common external EU energy policy are priorities for EU legislation (directives and regulations) that require the full liberalisation and unbundling of the natural gas market in Bulgaria and objectives include a significant increase in household gasification within the EU as a whole (European Commission, 2010). However, certain institutional, regulatory and technical (infrastructure) aspects of Bulgargaz' and Bulgartransgaz' operation in fact present obstacles to EU liberalisation policy. The natural gas Transmission System Operator (TSO) Bulgartransgaz is far from being completely legally and operationally unbundled from the public supplier Bulgargaz. In February 2012 the Commission issued warning letters (Reasoned Opinions) in response to delays in liberalising the gas market in Bulgaria (Europa, 2012b) and in January 2013 referred Bulgaria to the Court of Justice of the EU (European Commission, 2013).

The legal framework for unbundling (the Bulgarian Energy Act) suffered from significant inconsistency with EU legislation, particularly in terms of 1) granting and

¹⁰ 'First, Gazprom may have divided gas markets by hindering the free flow of gas across Member States. Second, Gazprom may have prevented the diversification of supply of gas. Finally, Gazprom may have imposed unfair prices on its customers by linking the price of gas to oil prices...[which] may constitute a restriction of competition and lead to higher prices and deterioration of security of supply' (Europa, September 2012).

managing Third Party Access on a non-discriminatory basis between system users or classes of system users (Art. 17.2.c. of the Gas Directive 2009/73/EC); and 2) provisions which state that the TSO shall at all times ensure it has the resources it needs in order to carry out the activity of transmission properly and efficiently and develop and maintain an efficient, secure and economic transmission (Art.18.2 of the Gas Directive 2009/73/EC, European Parliament and Council, 2009b). These are discussed in more detail below. Operationally, Bulgargaz and Bulgartransgaz are still sharing the same premises, IT systems and identical trademarks, in direct breach of Directive 2009/73/EC (Ivanova, 2012; European Parliament and Council, 2009b).

4.2. The Bulgarian State

Although the Bulgarian Energy Act of 2003 attempted to update the national regulatory oversight with the establishment of SEWRC (Bulgarian Government, 2003), this has largely failed, leaving the natural gas market in the country even less free than the market for electricity, exhibiting ‘full legal, but zero actual liberalisation...[with] regulated regional or municipal monopolies’ (Nitzov et al., 2010). The Commission raised concerns about SEWRC in November 2012, regarding its insufficient budget, instability of management and government intervention rather than a legal framework providing regulatory independence (Commission, 2012e: 74).

While the quest for further liberalisation and unbundling of the natural gas market in the country failed to gain ground due to prolonged delays in the transposition of key EU directives, the Bulgarian government was compliant in rhetorically committing to other aspects of EU energy strategy. For example, although Bulgaria has very limited domestic natural gas production, the government committed to significantly increasing the level of household gasification in the country by 2020, an objective lifted, almost word-for-word, from EU strategy documents, without making any provisions for this transition from the current level of 1.5% to 30% (interview 12, 2011; Bulgarian Government, 2011a: 50, 67).

The evolution of Bulgaria’s understanding of energy security since its accession to the EU in January 2007, with regards to its recognition of its high level of dependency on Russian gas, has followed patterns of amity and enmity with Russia similar to those identified in International Relations theory by Buzan and Waeber, (2003: 47), covering a spectrum of relationships between the two states from friendship or alliances to those based on fear, and affected by balance of power, ideology, territory, ethnic lines, and historical precedent. Until 2009, the ruling Bulgarian Socialist Party (BSP) maintained that continued and increased dependency on Russian energy sources would increase Bulgarian energy security (Bulgarian Government, 2008). Traditionally Russia has been perceived as a security guarantor rather than threat in Bulgaria. This perception has been challenged by Bulgaria’s membership of the EU, supply disruptions in 2006 and 2009, and a change of government in 2009 (Maltby, 2014). The 2011 Bulgarian National Security Strategy recognised that ‘[h]eavy dependence on energy resources creates economic and political vulnerabilities’ (Bulgarian Government, 2011a: 35) and

also that '[n]ational security is essentially contingent on energy stability' (Bulgarian Government 2011a: 38).

The 2011 Bulgarian Energy Strategy stated priorities include:

- 'Ensuring independence of the electricity and gas transmission system operators through their unbundling along with the transmission assets from the energy generation/supply/provision functions;
- Increased independence and extended powers of the national regulators, and co-operation of the national Regulators at European level;
- Increasing the transparency of the market' (Bulgarian Government 2011b: 29).

However, the struggle to reconcile its new alliances and policy with the EU with its existing material infrastructure makes it difficult for the Bulgarian state to negotiate and prioritise these. Fragmented by bouts of privatisation, liberalisation and unbundling, the Bulgarian state relies heavily on para-statal organisations (such as Bulgargaz and Bulgartransgaz), under the banner of the Bulgarian Energy Holding (BEH), to govern the energy sector. This takes place through a triad of power between the state, the state regulator SEWRC and BEH (and its companies).

Using state-owned energy companies as social buffers – for example, by absorbing losses from non-paying companies such as Kremikovtzi and Toplofikazia Sofia – is a long established practice in Bulgaria (Bouzarovski et al, 2012), which makes it difficult for the state to give up such mechanisms for price control and access to the profitable aspects of natural gas transmission (interviews 9; 10; 11; 12, 2011).¹¹ Furthermore, natural gas prices in Bulgaria are regulated for both household and industry consumers. SEWRC has continuously pressed Bulgargaz and Bulgartransgaz to keep the price of natural gas down in an attempt to control some of the social effects on consumers. This has happened at the expense of infrastructure development (Nenova, 2010; Nitzov et al, 2010). Instead of selling natural gas at regulated prices to only a number of protected consumers such as household and small industry consumers with the rest sold at market-determined prices, Bulgargaz sells all natural gas at regulated prices, including to medium and large industries. This price ceiling imposed by SEWRC means that the natural gas price in Bulgaria is significantly lower than the weighted average price fully dependent on the supply and demand conditions (Ivanova, 2012; UNECE, 2012).

Using Bulgargaz and Bulgartransgaz as social buffers by the Bulgarian government is made possible by the regulator SEWRC, which World Bank and European Commission reports (2013) concluded has insufficient technical and financial capability to fulfil its duties (World Bank, 2013; European Commission, 2012e). SEWRC's staff numbers were deemed inadequate considering the Regulator's scope of activities, while its budget was ranked as the second lowest per employee in Europe (World Bank, 2013). Furthermore, SEWRC's dependence on the state is not only due to the circulation of energy elites in

¹¹ Energy prices played a significant role in the resignation of the Bulgarian government in February 2013 (Novinite, 2013).

Bulgaria, but also has structural and legal roots.

Although Article 10 of the Energy Act (2003) guarantees the independence of the Regulator, Article 11.2 postulates that the Chairman, the Deputy Chairman and the members of the Commission are appointed and discharged by the Council of Ministers and the Prime Minister (Ivanova, 2012; Nenova, 2010). In addition, its budget is part of the central budget and not ring-fenced (World Bank, 2013) and subject to approval by the National Assembly. Furthermore, SEWRC is not free to allocate its resources by its own discretion, but specified by the Council of Ministers (for example the latter adopts the tariffs charged by the Regulator). This political and financial dependence of SEWRC is enabled by the lack of accountability guidelines for SEWRC in the Energy Act (Energy Ecology Economy, 2012). In 2013, SEWRC was weak as independent regulator and lacked the political, financial and technical power to adequately oversee and regulate the liberalisation processes taking place within the Bulgarian natural gas sector.

The relationship between the two intermediaries Bulgargaz and Bulgartransgaz is complex and can be analysed in relation to other stakeholders. In the context of BEH, both Bulgargaz and Bulgartransgaz are part of a close circle of institutions used arbitrarily by the Bulgarian state to control different aspects of the energy sector. It is because of the ability of the state to mobilise certain aspects of Bulgargaz and Bulgartransgaz to achieve its ends that the Bulgarian state is prepared to go to extreme lengths to preserve their strategic position in the natural gas supply network. This is evident from the failure of SEWRC to exercise control over their activities, and the failure of the government to change the terms of Bulgargaz and Bulgartransgaz operation despite numerous requests by the European Commission and distribution companies, including Overgas. For example, although Overgas submitted a complaint to the European Commission against Bulgartransgaz in 2011 for refusing to provide access to its pipelines, as required under the Third Energy package (Energy Ecology Economy, 2011), and despite several similar complaints to SEWRC, there has been no response from the latter.

BEH is considered to be 'too close to the government and...not an independent entity with the government as shareholder as the law states it is', which 'deprives BEH of corporate decision-making and identity', politicises decision-making (with the Energy Minister commenting on behalf of BEH rather than the managers) and undermines competitiveness (interview 4, 2011). BEH 'is very well placed to influence policy and regulatory choices in a way that preserves its dominant position' (Silve and Noël, 2010: 15). However, as the discussion will show, state-owned Bulgargaz and Bulgartransgaz also possess a level of independence from the state and do not function as passive or neutral means of achieving the state's objectives. State-owned Bulgargaz and Bulgartransgaz are capable of acting in their own self-interest, even if their (in)actions go against the interest of the Bulgarian government.

4.3. Bulgargaz and Bulgartransgaz

Bulgargaz is the state-owned sole public supplier of natural gas for the territory of Bulgaria. It is responsible for providing customers with an uninterrupted and qualitative supply of natural gas and as such purchases natural gas from gas production enterprises and gas traders¹² and negotiates gas transmission services with TSO and Distribution Service Operators, and for gas storage services with Storage Service Operators (Bulgargaz, 2013). Bulgargaz's importance for the state has allowed it a privileged position within the natural gas sector and the ability to 'dictate its own terms' (interviews 9; 10, 2011). Bulgartransgaz is a state-owned Transmission System Operator (TSO) performing licensed activities of natural gas transmission and storage. It owns and operates the national gas transmission network on the territory of Bulgaria to natural gas distribution companies and industrial consumers, as well as the transmission network for transit transmission of natural gas transmission through the territory of Bulgaria to Romania, Turkey, Greece and Macedonia (Bulgartransgaz, 2013a).

In short, Bulgargaz acts as a gas trader, buying natural gas from external suppliers like Gazprom and selling it to natural gas distribution companies, while Bulgartransgaz is responsible for the management of the national pipeline network. Bulgartransgaz' pipelines do not enter municipal territory, nor do they reach all municipalities in Bulgaria. Once the natural gas reaches municipal borders, it is sold to the gas distribution companies, which are responsible for constructing the pipeline infrastructure within municipalities in order to deliver the gas to consumers (interviews 9; 10; 11, 2011).

Bulgargaz and Bulgartransgaz emerged from the state company *Neft i Gaz (Oil and Gas)* established in 1973 and subsequently renamed *Gazosnabdyavane* in 1975 and Bulgargaz EAD in 1990. In 2007, in compliance with the requirements of the Energy Act and Directive 2003/55/EC¹³, Bulgargaz EAD was organisationally and legally unbundled into Bulgargaz Holding EAD, including Bulgartransgaz EAD, Bulgargaz EAD and Bulgartel EAD. A year later these companies were incorporated into the 100% state-owned BEH (BEH, 2013; Bulgartransgaz, 2013b).

The processes of liberalisation and privatisation have involved shifts in the balance of power, the relationships between utility companies, state regulators and consumers (Newbery, 1999; Finger and Allouche, 2002; Page and Bakker, 2005), necessitating the reordering of existing relations. Bulgargaz and Bulgartransgaz are strategically 'located' intermediaries providing a specific interface between actors and institutions representing the interests of the Bulgarian state, the Russian state and the EU.

As the sole owners and users of the national natural gas transmission infrastructure Bulgargaz and Bulgartransgaz are responsible for its maintenance and development

¹² In volumes, needed for covering the demand of the customers, physically connected to the gas transmission grid, and for the quantities, contracted for carrying out the activity of public suppliers (Bulgargaz, 2013).

¹³ Concerning common rules for the internal market in natural gas.

(Ivanova, 2012). However, there is acknowledgement at state, regulatory, BEH and industry level that the intermediaries cannot afford - at present and in the foreseeable future - to update the natural gas infrastructure network which was constructed under a significantly different energy regime and energy demand patterns in the 1970s (interviews 9; 10; 11; 12; 13, 2011). Most significantly, '[t]he lack of timely and adequate investment in the development of the gas transmission network corresponding to the plans for construction of the gas distribution network, is a major obstacle to the gasification in the country' (Bulgarian Government, 2011: 50). The percentage of Bulgarian municipalities with gas supply is only 15% compared to more than 90% as EU average. The country is also lagging behind the EU-27 average and its neighbours in terms of the development of its gas network and levels of household gasification (CSD, 2010: 82-83; Ivanova, 2012; MEET, 2011).

As Bulgargaz' and Bulgartransgaz' power is physically sunk into the ground (i.e. the pipelines that are laid) any changes to the material infrastructure network and how it is used will lead to changes in the intermediaries' power and ability to fulfil their purpose. Thus, the Bulgarian state-owned intermediaries are interested in preserving the status quo, while their preferential treatment by SEWRC, as above and beyond the law (interviews 11; 12; 2011) and political importance for the state, provides them with the tools to resist change.¹⁴

The terms of operation of Bulgargaz and Bulgartransgaz offer the opportunity for more strategic forms of policy-driven intervention through intermediation activities than it is usually possible under neoliberal governance (Rohracher, 2011). The state-owned intermediaries Bulgargaz and Bulgartransgaz use an array of formal (such as sole national licence) and informal institutional arrangements (such as a *de facto* immunity from SEWRC action) to govern the Bulgarian natural gas system in a way that accommodates and excludes specific sets of interests. This means that although the Bulgarian state has a vested interest in maintaining the position and role of Bulgargaz and Bulgartransgaz, they should not be considered as one and the same as those of the Bulgarian state.

The para-statal status of Bulgargaz and Bulgartransgaz itself suggests a (critical) level of independence of the two from the state. While the state has successfully retained a considerable leverage over financial, managerial and organisational aspects of the two intermediaries, it could only maintain it as far as it does not challenge their strategic position as intermediaries. Consequently, it could be argued that in relation to their strategic position as a physical intermediary between the state and SEWRC on one hand, and Gazprom and Overgas Inc. on the other, Bulgargaz and Bulgartransgaz are independent of the state and the latter cannot fully use their infrastructure networks as transmission belts of policy. This strategic degree of independence of state policy has repercussions for the stakeholder groups involved. By refusing access to their pipelines

¹⁴ The Commission's report also noted that the State Energy and Water Regulatory Commission (SEWRC) did not possess the necessary budget and staffing levels needed to provide regulatory oversight, while there were also concerns about management stability (European Commission, 2011a).

to natural gas distribution companies like Overgas, Bulgargaz and Bulgartransgaz are blocking the opening up of the sector to more competition, further liberalisation and increasing levels of gasification at household level. Although Bulgargaz and Bulgartransgaz have close links to the state through BEH, they retain a strategic level of independence from the state, which in this case they have used to preserve the status quo.

4.4. The Russian state, its proxies Gazprom and Overgas Inc.

A stated Russian objective is that 'international policy for the long term will focus on the possession of energy sources' (Government of the Russian Federation, 2010). Russian foreign policy 'travels' through Gazprom's natural gas and pipelines, because the Russian state owns the majority share of the company and has deep ties with the latter (Bouzarovski and Bassin, 2011). The Russian state has a 50% controlling stake in Gazprom (Gazprom, 2014). Many of the company's executive management and board members also held key positions within the Russian government and state agencies (Balmaceda, 2008). The level of control of the Russian state over Gazprom and its subsidiaries is most recently exemplified by the decree of President Putin from 2012 forbidding Gazprom, its subsidiaries and its 'daughter companies' to sign contracts for natural gas export or to provide information about their activities to third parties (such as the EU and national regulatory agencies) without approval from the central federal government (Kapital, 2012; Matiyeshyn, 2012). Such tight control is also exercised over Gazprom's subsidiary and joint stock companies outside of Russia, such as Overgas Inc.

Overgas Inc. is a private company, jointly owned by the Bulgarian Overgas Holding (50%), Gazprom (0.49%) and GazpromExport (49.51%) and its subsidiaries comprise over 55% of the Bulgarian market (Overgas, 2013b; Gazprom Export, 2013). Considering the influence of the Russian state over Gazprom we argue that Overgas Inc. is representative of the interests of the Russian state with regards to natural gas supply to the EU. Overgas is the largest private natural gas distribution company in Bulgaria, holding 5 out of a total 38 gas distribution licences awarded by SEWRC and comprising over 56% of the market (SEWRC, 2012; Overgas, 2013c). Thus Overgas is involved in the construction, operation and maintenance of gas distribution networks and facilities (Overgas, 2012c). Its self-proclaimed mission is to "support the intensive development of residential gasification" in Bulgaria (Overgas, 2013a). This is seen as a way to maintain Overgas' dominant position in the Bulgarian market and to increase its consumer base.

A key barrier to achieving these objectives is gaining access to Bulgargaz and Bulgartransgaz' transmission pipelines and natural gas storage facilities (Kapital, 2012; Ivanova, 2012; interviews 9; 11, 2011). Neither of the first two objectives is possible without the third one (interviews 9; 11, 2011). These three objectives align with the two priorities of the Russian state: 1) to maintain and increase its consumer base in

Europe (Russian Government, 2010: 15; Gazprom, 2013)¹⁵ and, 2) to gain more control over infrastructure in EU member states (Medvedev cited in Perevodika, 2010).

The process of gasification involves the construction of the gas pipeline to the point of final consumption, the construction of gas installation and the supply of natural gas to consumers (whether household or industrial) and is carried out by natural gas distribution companies like Overgas (interview 10, 2011). According to the Bulgarian government, the development of the distribution network and gasification are undermined 'mostly due to the lack of corporate and regulatory policy for the planned development of the transmission network...[and] the legally unclear differentiation between transmission and distribution networks' (Bulgarian Government, 2011: 50).

Since the largest share of the profit in the supply of natural gas is made in the final sale to consumers, i.e. its distribution, Overgas Inc. will increase its profits in Bulgaria by increasing the number of household consumers (interview 11, 2011). Thus, for Overgas Inc., Bulgargaz and Bulgartransgaz failure to provide access to the infrastructure network and develop it beyond the main transmission route obstructs the realisation of Overgas' objectives and Russian state policy (interview 9, 2011). Overgas will be able to achieve its objectives if the EU Third Energy Package is fully implemented in Bulgaria and on this rare occasion the interests of the EU, the Russian state and its proxies, and the Bulgarian state – to increase the level of household gasification – overlap.

4.5. Bulgarian natural gas policy problems

The presence of the state-owned natural gas intermediaries Bulgargaz and Bulgartransgaz not only affects attempts to implement Russian and EU energy strategy, but also creates two significant problems within the national natural gas policy. Firstly, it results in the inability of the Bulgarian state to reconcile maintaining the state-owned intermediaries and the inevitable need to fully implement the Third Energy Package (to remove the intermediaries and/or to allow access to their pipelines to private gas distribution companies) and thus put a stop to the series of infringement procedures and (proposals of) fines by the Commission. The second problem is between Bulgartransgaz' and Bulgargaz' inability to develop the national natural gas infrastructure and the stated national objectives of increased household gasification. The percentage of households using gas can be increased significantly if the liberalisation of the market in the country is successfully completed (i.e. private gas distribution companies have access to the national pipeline network) and a more extensive fast high-pressure transmission system in the territory of the country is constructed (Bulgarian government, 2011: 11). However, while gas distribution companies like Overgas argue that this should be the job of the state-owned Bulgargaz, because otherwise the price of natural gas to the final consumers would have to increase manifold, the state and SERWC recognise that Bulgargaz and Bulgartransgaz

¹⁵ '[T]he following must be provided...increasing energy supplies to the world's largest consumers' (Russian Government, 2010: 15).

are not able to make major infrastructure investments because of their role as a social buffer (interviews 9; 10; 14, 2011).

Bulgargaz and Bulgartransgaz are key nodes in the Bulgarian natural gas network. Their strategic position and role as intermediaries between the Bulgarian state, natural gas distribution companies like Overgas Inc., Gazprom, the EU and SEWRC has made them focal points not only in the physical flow of natural gas from Gazprom to Bulgarian consumers, but also in the implementation of national, EU and Russian policy. Focusing on their operation and impact on all four actors allows the discussion of some of the significant institutional, regulatory and technical obstacles to full market liberalisation of the natural gas sector in Bulgaria. Although Overgas Inc. has repeatedly asked Bulgartransgaz for access to its pipelines, access has been denied on technical grounds. Bulgartransgaz claims that it needs more time in order to allow such access to its pipelines, given the high number of entry and exit points required by Overgas Inc. (interview 11, 2011).

Although the Bulgarian state has expressed desire to increase the level of household gasification in the country and has taken steps to implement some reforms associated with the Third Energy Package, its ability to realise these is impaired by the lack of material and institutional landscapes to support these changes. As shown in the discussion above, the weak regulator and the close relationship between the state, SEWRC and BEH, facilitated through the circulation of energy elites between the three, create a complex matrix of interests which can facilitate, distort and block state policy. Although the state can use Bulgargaz and Bulgartransgaz to support state policies, it can only do so insofar as it does not change the terms of their operation and challenge their strategic position as intermediaries. For example, years of using Bulgargaz as means of “subsidising”/supporting struggling municipal heating companies, such as Sofia District Heating company, which in 2013 owed 100 million leva to Bulgargaz and 360 million leva to BEH (Republic of Bulgaria Council of Ministers, 2013), has limited Bulgargaz’s financial stability (Bulgargaz, 2012) and inadvertently made it impossible for it to provide the levels of investment needed to expand the natural gas network and increase household gasification (interviews 9; 12, 2011). In short, at present the Bulgarian state is able to only follow the letter of EU energy reforms and not its spirit, since this would require changing its relationship with Bulgargaz and Bulgartransgaz, introducing a strategic level of distancing from SEWRC and giving up Bulgargaz and Bulgartransgaz’ strategic position as sole operators of the national natural gas transit and transmission network.

5. Conclusion

The existence and operation of Bulgargaz and Bulgartransgaz has stalled the implementation of EU gas market liberalisation in the country (interviews 10; 11; 12, 2011), in turn undermining the EU’s energy security strategy. Furthermore, the two natural gas intermediaries undermine the ability of the Bulgarian state to use the

natural gas infrastructure network within the territory of the country as a transmission belt for its energy policy.

The institutional capacity of the Bulgarian state is limited, regarding firstly the development of independent energy policy and its implementation in the face of pressures from the EU, Russia and Bulgarian natural gas intermediaries (and from within due to the circulation of energy elites). Another significant reason why Bulgargaz and Bulgartransgaz have been able to maintain their strategic position so far is that the regulator, SEWRC as a regulatory agency in transition, is weak, dependent on the state and with strong links to BEH.

Because of Bulgargaz' and Bulgartransgaz' level of independence from the Bulgarian state to pursue their own interests and their political significance to the state, national policy objectives such as increased domestic gasification are unlikely to be successfully implemented while the terms of operation of Bulgargaz and Bulgartransgaz remain the same. The two state intermediaries represent 'choke points' (Bridge et al., 2013: 333) in the implementation of the natural gas liberalisation packages and the state objective of increased domestic gasification. For example, they are able to deliberately stall attempts by the Bulgarian government to implement reforms in line with the EU's Third Energy Package. Furthermore, the close relationship of Bulgargaz and Bulgartransgaz with SEWRC and the Bulgarian state means that they receive preferential treatment and have a high concentration of market control, thus making the entrance of new companies to the Bulgarian natural gas market and the creation of more competition more difficult (Ivanova, 2012; Nenova, 2010).

Liberalisation and unbundling are step processes, which need to be continuously produced through specific regulatory and institutional arrangements, such as effectively and progressively increasing the number of market participants and competition between suppliers. What this paper shows is that state-owned intermediaries could be an obstacle to these processes of change. Further research could examine whether the findings we have claimed in this paper are generalisable, and are applicable to other EU member states with similar energy sector characteristics, as well as whether other Member State intermediaries also pursue their own agendas through affecting, reshaping and transforming the policy regimes within which they operate.

Personal interviews

1. Interview 1, European Commission 1, Brussels, August 2010.
2. Interview 2, European Commission 2, Brussels, August 2010.
3. Interview 3, European Commission 3, Brussels, August 2010.
4. Interview 4, Bulgarian NGO 1, Sofia, October 2011.
5. Interview 5, Bulgarian NGO 2, Sofia, August 2011.
6. Interview 6, Bulgarian government 1, Sofia, September 2011.
7. Interview 7, Bulgarian government 2, Sofia, August 2011.
8. Interview 8, Bulgarian government 3, Sofia, August 2011.
9. Interview 9, Natural Gas Distribution Company 1, Sofia, March 2011
10. Interview 10 Natural Gas Distribution Company 2, Sevlievo, May 2011
11. Interview 11 Natural Gas Distribution Association, Sofia, March 2011
12. Interview 12 Bulgarian State Energy Legislator, Sofia, March and May 2011
13. Interview 13, Bulgarian NGO 3, Sofia, July 2011.
14. Interview 14, Bulgarian Government 4, Sofia, July 2011.

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