

EDISON'S POSITION ON THE ERGEG CONSULTATION ON IMPLEMENTING THE THIRD ENERGY PACKAGE.

EDISON: WHO WE ARE

Edison is today the second largest electricity company in Italy and the third player for natural gas in Italy. With 7,2 bln. Euro of planned investments within 2014, Edison is currently carrying out one of the major growth plans in the European energy scenario, aimed at increasing its market share in Italy, as well as at expanding its international outreach. Edison's initiatives span all along the energy supply chain, from E&P (where it was for example awarded in December 2008 the concession for the Egyptian development of Abu Qir), to large scale mid-stream infrastructure (with the first offshore LNG Terminal in the world being started up in Rovigo, GALSI being developed to directly link Algeria and Italy and ITGI being the most advanced project between Italy and the Caspian), to Merchant Lines (such as the AC Tirano-Campocologno), to thermal and renewable power generation.

Wholesale and retail market operations are also growing at a fast pace, both in the electricity and in the gas sector, making Edison one of the leading operators in Italy, and a growing player in several EU trading markets.

Edison welcomes the opportunity offered by ERGEG to present its point of view on the Implementation of the Third Energy Package. Comments will focus on macro-items, which we believe particularly relevant in an operator's perspective in order to fulfill the goals set by the consultation paper.

GENERAL PRINCIPLES

HARMONIZATION

In our view, the electricity and gas market show different stages of development.

The electricity market has progressively reached significant results in terms of bi- and multilateral cooperation. We do believe that the fundamental goal for ACER will be to play a proactive role in favouring investment in cross border related transmission, both by assessing the 10-year investment plan, and by monitoring its actual implementation. In this light, as far as regulated cross border capacity is concerned, the Agency should also develop framework guidelines for the evaluation of the ten year investment plans and how costs shall be allocated between TSOs. In the case of Merchant Lines, ACER should provide support, when regulatory cooperation fails to deliver swift and coherent results.

In the gas sector, there still is a fragmented scenario which needs to be addressed if we need to promote effective market integration. A coherent harmonization process could represent a paramount opportunity in many areas, such as developing harmonized European framework guidelines to design capacity auctions, and balancing procedures and penalties.

The Agency's independence will be fundamental, in order for this new European regulatory body to properly undertake these and the other activities it is responsible for.

NETWORK CODES AND TEN YEAR NETWORK INVESTMENT PLAN

Edison is in favour of the third option highlighted by the ERGEG document, with ACER developing codes which set out principles to be then implemented by NRAs, which will draft codes enforceable

on their relevant market, where they have powers and detailed expertise upon. It is in fact necessary to ensure all developments that affect market functioning, to be fully compliant with the existing EU-acquis and powers, in order to avoid uncertainties and potential later drawbacks. In this light, the third option appears to be the most coherent with the current juridical basis, which will be further enriched with direct competencies on the energy sector only after the Lisbon Treaty will enter into force.

To this respect, it shall be highlighted that the 10-year network investment plan review will fall into a similar reasoning, when it comes to its character. In our view, ACER should play a fundamental role in addressing the key issues of assessing the ENTOs prepared plan and in monitoring its effective and swift implementation. None of these elements can be regarded as binding, if one is to design a coherent and streamlined process, coping with subsidiary powers of NRAs and national authorities as well as with the current juridical basis on which EU competencies are grounded.

STAKEHOLDER CONSULTATION PROCESS

Edison agrees with the idea to create “ad hoc panels” with direct participation of the stakeholders. We do believe that it is necessary to involve all relevant parties and – given the ongoing liberalisation process and progressive unbundling – it is vital that both network owners and all other stakeholders are consulted (including new entrants, owners of merchant infrastructure, etc.): in general, guaranteeing transparent and balanced participation (also on geographical basis) in these “ad hoc panels” or any similar groups will be of the utmost importance.

A specific remark shall be made in the gas sector; gas storage operators are not quoted in the document but appear to be a major player with growing influence in the overall market functioning; they have therefore to be fully encompassed.

Calls for Evidence are often a good tool to assess the possible implications of a certain legislative proposal: we believe the Commission and ACER should make use of these to give market participants a chance to support decision making bodies in selecting the best available options. In addition, we recognize the value of impact assessments and believe that costs and benefits should be carefully considered when making proposals.

The occurrence of potential problems due to the strict deadlines set out in the Third Package documents has been correctly identified by ERGEG¹. In our opinion, having proper stakeholder consultations is a paramount priority: respecting the procedure timetables shall therefore not be at detriment of good-quality consultations, allowing stakeholders to express their views in a informed manner and with sufficient time at their disposal.

REGIONAL LEVEL

In light of the existing patrimony of work acquired by the Regional initiatives of ERGEG it shall be remarked that the way towards full integration will be more effectively carried through if a progressive approach of regional alignment is fostered and proactively enacted. Edison believes that ERGEG / CEER can play a major role in complementing the top down approach of the package with their sound cooperation experience.

To this respect, we propose that a Regional approach is added to the ACER and ENTSOs developments, by establishing regional committees within their bodies of work. The tasks of these committees could span from coordinating regional efforts, to focusing on addressing issues of

¹ See for instance par. 29 of Appendix 2 on Framework Guidelines and European Codes: “*The Agency is obliged to deliver a justified opinion on the draft codes within a period of just two months, which includes a public consultation. Careful preparation will be essential if this timetable is to be met, and without appropriate and sufficiently detailed framework guidelines prepared in advance it will not be possible for the Agency to meet the strict deadlines and the delay in the process will be inevitable*”

regional relevance and developing common policies needed at a regional level, bearing in mind the different economic and productive structures of the markets concerned. These committees could also carry out more detailed consultation among stakeholders active in the regions and play a fruitful role in enriching the quantity / quality of the information available to central organizations.