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ERGEG public consultation on “2008 ERI Coherence and Convergence Report”

November 11, 2008

Dear Mrs. Geitona,

EnBW Energie Baden-Württemberg AG welcomes the opportunity to take part in ERGEG's consultation on the '2008 ERI Coherence and Convergence Report' and likes to provide the following comments on the issues raised in the consultation document.

Generally, we appreciate the work undertaken by ERGEG to provide an overview of the state-of-play regarding the Regional Initiatives. Although there has clearly been progress made on the way to an integrated European electricity market over the recent years, we still observe substantial structural differences in the electricity markets within and between the regions. We also like to point out to the apparent lack of coherence between the regional initiatives. Therefore, we urge all involved stakeholders to improve coherence in order to ensure a converging approach which will in turn lead to converging solutions. We consider the regional initiatives as a very pragmatic approach to deliver tangible results. From our perspective it is crucial to enlarge the markets and price areas as this ensures highest possible liquidity in both spot and forward/futures markets. In this context it is vital that market parties are able to continuously access interconnection over multiple timeframes to respond to any change of market information, while transmission products are firm and having features that match the ones of energy products. On an overall basis, we agree with ERGEG that due to limited resources a prioritisation of the various projects is needed to ensure fast progress. In this context we would also like to mention the still unclear refinance situation of the costs arising for the stakeholders involved in the these projects.

Chairman of the Supervisory Board:
Dr. Claus Dieter Hoffmann

Board of Management:
Hans-Peter Villis (Chairman)
Pierre Lederer (Deputy Chairman)
Dr. Bernhard Beck
Dr. Hans-Josef Zimmer

1) Comments on congestion management in the ERIs :

ERGEG has identified several areas where further work is needed:

- Capacity calculation methods:

We are not convinced that capacity calculation models that are based on different principles will be a good approach to ensure a converging process between the different regions. Rather, a common methodology seems to be a more efficient approach which also requires a closer cooperation of TSOs. By taking into account all available capacities on a regional level, more capacity could be offered without endangering the security of supply.

- Capacity allocation platform:

In our view, the focus should be first on determining the important product features including duration of the products, firmness of the capacity rights, possibility for secondary nomination. We believe that the maximum possible capacity should be offered to the market so that market parties are able to continuously access interconnection over multiple timeframes (multiyear/yearly); this is essential in order to be able to respond to relevant changes while generation, trade and sales units have a strong need to hedge their positions. Also new market entrants, whether on the sales or on the generation side, need liquid wholesale forward and futures markets to hedge their long-term positions. These markets provide relevant price signals for all market participants and have direct influence on production and sales contracts. Allocation of long-term capacity also avoids higher risk due to volatility of day-ahead markets (higher risk would finally lead to higher prices for end customers). Overall, firmness of capacity rights is an important issue for the market participants as otherwise they would have to bear unmanageable risks in case of curtailment. Surely, in case of force majeure, TSOs cannot guarantee firmness of capacity and thus cannot be liable for any costs exceeding the initial capacity price. However, firmness in this respect should be defined in the same way at least on a regional level (in a way CASC intends to do for the CWE region). In all other cases compensation for any curtailment of capacity could be at full market spread. In this context there is still the unsolved regulatory issue how TSOs are allowed to refinance this risk. A suggestion is, that these compensation costs could be refinanced from the congestion rents while for a transitory period, we would also support an upper limit on a total compensation amount per month. In principal, the following facts need to be given:

- a) regulation on both sides of the borders is coherent,
- b) the curtailment occurs in a case other than force majeure,
- c) curtailment of capacity indeed occurs rarely and
- d) there is significant liquidity on both sides of the border as a proof of a long term market in which market participants trust.

Furthermore, the use-it-or-sell-it mechanism (UIOSI) is an appropriate and needed approach at all European borders to complete a secondary capacity rights market. Regarding physical/financial transmission rights we support the introduction of a secondary market that encompasses a mechanism that allows physical long term capacity to be resold and the option for transfers of capacity from traders back to the TSOs. Such a secondary market provides market participants with more flexibility depending on the specific market situation.

We do not see that contracts for differences, as they are - at least in theory - available or - in practice almost at all times - not available in the Nordic region, will give the market participants the full possibility to hedge their positions neither do they provide investment signal to the TSOs.

- Day-ahead market coupling:

We see day-ahead market coupling is an important step to integrate spot markets. Regarding the implemented calculation method (NTC; FB), we would argue for a pragmatic approach that allows for a timely implementation. The recent experience with the start of EMCC which had to be suspended shortly after start, shows that at the same time good care needs to be taken that processes run robustly, particularly in respect to the applied algorithms and business rules. In order to bring the different ongoing day-ahead MC projects together, we believe that the concept of a dome coupler is a pragmatic approach to couple the regions.

- Intra-day mechanism:

For the allocation of intra-day capacity we are in favour of a continuous trading platform on a central TSO interface which is exchanging information with the market places. We would leave it up to the market to build up platforms. It would be useful to have one open regional trading platform to ensure maximum possible liquidity. Additionally, OTC-trading is needed to enhance the flexibility of the market and is also of particular relevance for traders self-balancing.

- Transparency:

The availability of market relevant information is an important issue for a functioning market. We therefore support clear and harmonized rules in the different ERIs. Ultimately, there is also the need to have harmonized rules between the various regions. A stepwise approach seems to be a pragmatic way as we currently see significant differences in both speed and content on implementing a common transparency standard in the different ERIs.

- Balancing:

Before harmonizing formats of balancing offers, it is important to harmonize the market design of balancing markets within the regions. Exchange of balancing energy is in fact an issue regarding the different schemes and products in Europe. In Germany, all the reserve energy (primary as well as secondary) and minute reserve is bought by the TSOs through a central market place. There could be further harmonization regarding exchange of balancing energy, while it is important to keep system security in mind. Generally, cross-border capacity should not be reserved for balancing purposes. The focus should first of all be on the maximization of available capacity for the market with an emphasis on long term capacities. Generally, balancing trades are in our point of view of lower priority, e.g. the cross-border intraday trading should be implemented first.

- Investments:

Besides improved congestion management, an increased investment in capacities will support the integration of the markets. The markets in general should benefit from investments and they should also support security of supply. Nevertheless, as with any investment, there has to be a appropriate return on the investment. With an appropriate return investors are able to balance the risk and will have an incentive to invest in networks thus facilitating the enlargement of market areas and ensuring security of supply. In this context we would also like to mention the fact that planned investments are very often delayed or in some cases even cancelled due to long lasting approvals by authorities or opposition by the public.

2) General comments on cross-regional coordination :

Generally, the Regional Initiatives should continue to play a key role in closing the gap between markets towards an integrated European electricity market. In the case of investments between two regions it will soon require even closer cooperation between TSOs and regulators, as it may involve two or more ERIs. As the status of regional market integration projects within Europe are different we see the need for separate projects to be rolled out in the different regions. At the same time we count on the cooperation between regulators and TSOs of the different projects within the Regional Initiatives to ensure that the aim of one internal energy market is incorporated into all projects. This is e.g. that any auction platform developed in one region should in principle be designed in such a way that it is easy to extend or incorporate it into other regions. Also, we believe that the bottom-up process chosen so far, i.e. stakeholder consultations at certain steps of a regional market integration process, has proven to be a good measure to include all stakeholders in the process. Although progress could sometimes be made faster, we doubt that a blunt top-down approach would be in the interest of the market participants. We therefore encourage regulators to work closely together and carefully monitor the projects currently under way. It has to be ensured that the experiences made in the different projects are actually shared across all projects. On a broader level we believe that the definition of a roadmap would be helpful in order to coordinate the different regional projects at an interregional level in a non-biased way. Therefore, we urge the national regulators in the respective regions to cooperate deeply to develop a common view to strongly encourage all parties involved within the different projects to develop each project while having the others in mind. This implies joint knowledge about visions, strategies and processes. The roadmap should classify the different regional initiatives, assess their importance and probability of success as well as the compatibility with other regional initiatives. However, this should be done in a way that does not stop the dynamics of ongoing projects.

Regarding coordination between different regions, a “lead regulator” (as already defined within the regions) could be determined. Especially the National Regulatory Authority which lies between regions, could be authorized to be in charge of organising and ensuring compatibility and coherence between the regions. This National Regulatory Body could also take over the tasks of a kind of “governance body”, which would be set up whenever an implicit allocation area is created. Since the report does not explicitly state how such a body would be designed and which competences it would have, it would also be necessary to determine when such a body becomes obsolete due to progress towards the single European electricity market. It would make sense that all the stakeholders are represented in the governance body. Additionally, it could be considered if ERGEG defines guidelines for the National Regulatory Authorities and/ or ERIs in order to ensure all regions keep similar pace and rules as well as practices are harmonised, so that a disordered system of manifold provisions is avoided in advance.

Again, we like to re-emphasize that it is important to involve market parties as early as possible in the workgroups between TSOs and Regulators as key for success is that the implemented project should meet market expectations to the benefit of all grid users.

EnBW hopes that these comments prove to be useful for ERGEG in the further development of the Regional Initiatives.

Yours sincerely,

EnBW Energie Baden-Württemberg AG

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Senior Manager