

European Energy Regulators
Rue le Titien 28
1000 Brussels
Belgium

27 January 2010

Response to the Public Consultation

Draft Strategy for Delivering a more Integrated European Energy Market: The Role of Regional Initiatives

Dear European Energy Regulators,

In responding to the above mentioned consultation, VERBUND - Austrian Power Grid AG (APG) would like to express its support for the proposed refocusing of the overall approach to achieving a single European market for the energy commodities electricity and natural gas. In the following, we answer the sets of questions raised in the consultation document en bloc, after giving some general remarks.

General remarks

APG is acknowledging and supporting the notion of the consultation paper that the third package's provisions require an **enhancement of regulators' powers** which **necessitates a structural refocusing** in turn. A change in the structure and an alignment of the Regional Initiatives (RIs) is a capable lever for such a move and creates momentum to gear the completion of the Internal Energy Market (IEM). The role TSOs play in this process is correctly expressed in the strategy; we also regard our mission as the enabler and facilitator of continuous integration, safeguarding the playing field for regional markets in the medium term and promoting the creation of a European electricity market in the not too distant future. We also share the viewpoint that the correctly displayed need for **acknowledging national and regional specificities and system security** are crucial requirements

for the success of such a process. We appreciate the **appropriate involvement of all stakeholders**, from market participants to consumers, in this process. Nevertheless, we want to point out that the European regulators have to **make sure that their independence is not compromised** by increasing the involvement of Member State representatives beyond the part they play in the comitology procedure. Crucial points in the reorganisation of RIs are to **ensure the benefits of advances achieved** in some regions up to now, as well as to **streamline the governance schemes** for example by introducing majority voting, rather than creating additional bodies.

Regarding the first set of questions

A single high level strategic plan for achieving a functioning integrated pan-European energy market can only be discussed individually for each of the commodities gas and electricity. The main reason for this is that the underlying market structures entail distinctive features and accordingly induce different treatment, even more so, the more advanced the completion of the respective internal market is. Moreover, for the given reasons the process of **integration** can only follow **a gradual and path dependent approach**, which is based on the experiences made in the various regions, building on the respective achievements up to now. Hence, a **detailed unitary vision** for both markets **entails the risk of losing the knowledge and advances** their distinctive developments brought, putting at risk the overall success of the project. For the same reason, APG does not favour a central high level strategy which tries to outline the details of the future integration. We also consider the **process** as being **necessarily participatory** and assume that a unitary vision cannot accommodate the multifaceted needs of market actors, consumers and regulators in case it is exclusively drafted by a central organ.

A different approach, however, can prove successful in embedding interests, knowledge and experiences in a participatory way. An example of such a project is the Market Integration Design Project (MIDP). We advise to **build upon** this project's results and gradually advance from there a commonly shared vision, when at the same time implementing previous achievements continuously in concrete projects. The **experience from the MIDP** also highlights another dimension which should be considered. To a large extent, Europe's electricity market stakeholders already share a similar view on the underlying requirements of the most beneficial form of market integration. For most involved parties, they are mechanisms of **cross-border trade based on implicit market coupling**, however requiring an implementation trying to maximise the welfare of the European society. A **common (coordinated) capacity calculation** in the entire European synchronous area, based on a Common Grid Model, could serve as a starting point for accelerating the integration in electricity. It would be a major step forwards in reducing redundant security measures which will become

unnecessary, as they are the result from insecurity stemming from a lack of information (exchange) between European TSOs. High levels of measures like reliability margins reflect the interdependences within the meshed grid, and point to the differing information levels between TSOs. Accordingly, various **integration measures** exist which can for example increase cross-border capacity with controllable efforts and that at the same time **base on shared understanding** and interest of all stakeholders.

Consequently, APG considers both the risks of delaying ongoing implementation projects in the regions, as well as the potential of facilitating progress, as possible results from a strategic vision. The way of **integrating stakeholders** in elaborating such a vision and **the level of flexibility** in such an approach will determine its success.

Regarding the second set of questions

Member States are involved in the legislative process of creating the IEM since they **play a central role in every legislative process** regarding the energy sector, ever since common European policy measures were introduced. Member States' influence is also secured in the legislative process regarding the development of network codes via the comitology process through the provisions from the third package. Correspondingly, we regard the proposed increase of Member State **involvement** as **a sensitive issue**, which bears the potential to hamper the RIs' work, be redundant or even undermine the regulators' independence. The latter is to be ensured under any circumstances; closer involvement of Member States should only be promoted by regulators under strict rules. **Maintaining the RIs' regulator and stakeholder driven character** at a technically focussed level with little political bargaining can prove to be a capable and successful vehicle.

Regarding the third set of questions

APG understands the **organisational form of** and coordination between the **RIs** as **crucial to** the success of **completing the IEM**. The principle of establishing a single market for electricity gradually, building on regional achievements, can prove to be viable under the precondition of **clear-cut competencies and responsibilities**, as well as a central coordination or steering. We welcome the endeavour to **decrease the number of RIs** and thus diminish overlapping or even competing initiatives. Nevertheless, the **RIs represent a testing ground** for new initiatives and have the potential for policy, regulatory and technical **learning effects**, if these benefits are exploited and communicated between the groups.

So far, a number of **concrete examples** where single regions advance in some areas of integration **allowing for others to benefit** from this exist already. As soon as projects like the market coupling in CWE or the flow-based coordinated capacity auctioning in CEE are successfully implemented, other countries or regions with similar interests or conditions (existing power exchanges or whole sale market liquidity) could easily be integrated into these projects or benefit from using the same systems for their region. A good example in this context are the CSE TSOs intending to join forces with CWE-CASC.

The stated advantages and burdens are to be kept in mind, when designing or refocusing the organisation of RIs. This requires the initial determination of groups, foreseen merging processes over time and the subsequent assignment of topics to the relevant groups, as proposed in the strategy paper. A **thoroughly defined** approach can serve as a **guiding road map for the integration of the RIs** according to the ongoing integration of the energy markets. At best, such a strategy for the integration of RIs is to be established by the regulators, developed involving stakeholders, and under guidance of the Commission. Ensuring legitimacy, preserving experiences gained in the latest projects and developments and safeguarding political support are advisable for a guiding vision on the Regions' merging process. Such an approach, however, shall **not be augmented to a central high level strategy** for the completion of the IEM. It has to focus on it, **but** mainly aim to **reduce the number of geographic regions** and converge individual topic areas across a number of RIs.

Besides that, APG would welcome an **improvement of the feedback process** for public consultations, mainly by publishing the results from public consultations in a more timely manner. In the context of above mentioned refocusing of RIs it may prove helpful to minimise country membership in multiple regions. Consultations organised through the regions could become more efficient by clear **assignments of responsibility to certain regions** to avoid overlap or the clear **assignment of countries to thematically responsible regions**. The **role of the lead regulators** of the different RIs could also be **enhanced** by nominating additional specific coordination tasks by ACER to the respective national regulators. Accordingly, a permanent channel of coordination is created over these regulators in cooperation with (and in conjunction with the new tasks attributed to) ACER. In the same way as handled today, we would appreciate formal public consultations on regional proposals as well as on European proposals to take place through the RIs or ERGEG/ACER, respectively. The presentation of the **outcome of these consultations in the form of a conclusive paper** is an appropriate way to gain overview of the responses and the regulators' focus on the matters, too.

A newly created leadership role, as proposed in point 4.5 of the strategy paper, has the potential to overcome “blockage” or to facilitate (regional) market integration. Nevertheless, the **creation of additional bodies** should **be carefully considered** in advance. Besides additional administrative burdens, the creation of additional governance bodies can significantly slow down (decision making) processes and accordingly bear the risk to yield poor results in the end. This risk is higher the more complex or technical the matters are; some of the issues to be discussed or decided in the RIs are merely technical. Furthermore, with the increased cooperation and need for coordination between the regions and accordingly between the regulators, it may prove helpful to strengthen the mediation role of the RIs’ Regulatory Coordination Committees. **Binding rules on the cooperation between national regulators**, as ACER can propose them, may be necessary to combine their new regional duties stemming from Regulation 713/2009 with the lack of regional competencies.

Finally, we would propose one specific change in the organisational structure when merging the RIs, in whatever form. As today’s **unanimity voting** applied in the governance of the regions is **hampering decision-making**, we anticipate increased problems when further increasing the number of parties involved. Regions, by definition, bring together interests that are often grouped along lines of stakeholder or interest groups rather than countries, which in most of the cases yield the lowest common denominator as a result. To simplify decision-making and **streamline governance**, we propose the introduction of some kind of **majority voting** in the merging process of the RIs.

Kind regards,

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