



IMPLEMENTING THE THIRD PACKAGE – INITIAL CONSULTATION BY ERGEG

CEDEC OPINION PAPER

Considerations

The 3rd package will provide a new framework for competition in the electricity and gas sectors. ERGEG outlines what needs to be done during the “interim period” (probably 18 months) before the package enters into full legal effect. The Agency will not be able to act before June 2010, nor will the ENTSOs be formally operational before January 2011.

- Therefore, ERGEG has developed initial proposals in three key areas :
 - stakeholders interaction with the Agency
 - development of framework guidelines and network codes
 - coordination of regional and national approaches into the European regulatory framework.
- Framework guidelines are now being prepared within ERGEG, and will be so by the Agency in the future. The Commission will establish the priorities. The guidelines will form the basis for the ENTSOs to draft the network codes, with final approval resting with the Agency. The Commission may propose the code to the comitology committee in order that the codes become binding.
- The role of each of the bodies will need to be well defined : all stakeholders, including transmission and distribution network operators, network users and consumers, should indeed be appropriately involved in the processes.

CEDEC welcomes this initiative but insists on more explicit participation of all networks operators, this means including distribution system operators. Especially as it is unclear which impact the guidelines on (mainly and initially) cross border network codes might have on national network codes, national market codes and national data communication codes.

Comments

1. Stakeholders interaction with the Agency

In all the documents of the “implementing package” the distribution system operators are not mentioned and recognized as specific network operator. They are not ‘network users’ or ‘customers’.

If the objective is the optimal involvement of all parties concerned, then a specific role should be attributed to network operators (transport and distribution system operators), network users (producers, traders, sales companies, ...) and customers.

CEDEC considers that the stakeholder consultation is already effectively addressed through the Florence, Madrid and London Fora.

If "ad hoc panels" would be created on specific issues – with distribution network experts present – they should preferably be sub-groups of the existing Florence, Madrid and London Fora.

As far as the ENTSOs are concerned, it should explicitly be mentioned that distribution system operators should always be involved when developing and discussing network codes and other key documents.

However, given the scarcity of time and resources, duplication of consultation should be avoided or at least minimised.

2. Development of framework guidelines and network codes

Impact of cross border discussion on national codes

The first set of codes will be concentrated on cross-border issues.

However, it is unclear if the subsequent modification of codes is equally restricted to cross border or – through its co-existence with national codes - has the ambition to intervene on other, national network codes.

As is correctly stated in the ERGEG documents, the 3rd package does not contain any specification on how extensively the network codes should reach into the operation of national networks.

If the latter is the case, DSO's should be directly involved. Especially if the codes would be legally binding and thus directly enforceable.

Current work on guidelines

As far as current work on guidelines is concerned, CEDEC members are specifically interested in :

- grid connection and access rules,
- tariff guidelines,
- data exchange and settlement rules, and
- energy efficiency regarding networks.

We doubt that the current consultation procedures are sufficient to take into account – in due times – the views of distribution system operators

Stakeholder involvement in the rules of procedure of the ENTSOs

While developing the network codes, it definitely should not be up to the ENTSO to decide on the mechanisms and the degree of stakeholder involvement. ("The ENTSO may involve...", It is for the ENTSO themselves to develop...").

The exact methods for involving stakeholders should indeed be included in the rules of procedure of the ENTSOs.

The Agency must in any case undertake a definitive consultation on each draft network code.

Understanding the impact of the proposed rules on all parties and effective involvement of all stakeholders in the process are essential.

Especially as the network codes will also impact on market design issues.

The specific role of DSO

As it concerns network codes , the specific role of DSO – which is an operator and not an network user - must be recognized more explicitly in the consultation process, throughout the text.

3. Coordination of regional and national approaches into the European regulatory framework

As the development of network codes will be foreseen at EU level, it will unavoidably impact the current regional initiatives.

Here also, it is imperative that there is absolute clarity for stakeholders about the process of coordination, how it will operate, and how they can interact effectively.
