

CONCLUSIONS

XIVth European Electricity Regulatory Forum Florence, 24-25 September 2007

1. The XIVth meeting of the European Electricity Regulatory Forum took place in Florence on 24 and 25 September 2007. The forum was attended by representatives of the Commission, the ministries and regulators of the Member States and all interested stakeholder associations. Moreover, there were representatives of the candidate countries Croatia, Macedonia and Turkey and of the third countries Albania, Bosnia & Herzegovina, Montenegro, Norway and Switzerland.
2. The forum took place a few days after the Commission adopted proposals for a 3rd internal market package on 19 September 2007. The particular focus of the forum was thus on the proposed package and the forum presented an opportunity for the participants to give a first general assessment of the package.

Presentation and discussion of the 3rd package proposals

3. The Commission presented the main pillars of the proposed 3rd energy package, notably, its proposals for more efficient unbundling, greater transparency, strengthened cooperation of transmission system operators, greater independence and powers of national regulators, the creation of an Agency for the Cooperation of European Regulators and improved solidarity between Member States.
4. All participants generally welcomed the Commission's initiative to propose a new legislative package in order to complete the internal energy market. Participants also agreed that the further legislative process should be as fast as possible to avoid any negative effects on further progress in the regions or on investment due to an uncertain legal framework.
5. CEER expressed its support in particular for the proposals to strengthen the powers and independence of national regulators and to create an independent regulatory agency at European level. It expressed some reservations as to the powers of the agency in particular vis-à-vis the proposed European network of transmission system operators. ETSO expressed its support in particular with respect to the creation of the European TSO network and it declared to set up such a network even ahead of the final adoption of the 3rd package. It noted that the cooperation between the future agency and the TSO network would have to be worked out and that some more clarification may be needed with respect to the proposed list of tasks for which the TSOs will be responsible. Moreover, ETSO emphasised that it is important to improve the procedures to obtain permits to build new infrastructure.
6. Eurelectric sees the package as a positive step forward but market integration needs to be reinforced and as an example it presented the concept of regional independent system operators. GEODE and CEDEC singled out the strengthened powers of national regulators and ownership unbundling as important elements of the third package. CEDEC expressed its satisfaction that the 3rd package does not propose

any additional provisions concerning the unbundling requirements of distribution system operators.

7. EFET welcomed in particular the 3rd package proposals for stronger TSO unbundling and stronger regulation at national and European level. It expressed some concern with respect to the Commission's proposals to strengthen transparency requirements. It also noted that the Commission should continue to pursue the issue of regulated prices. EUROPEX expressed its general support for the 3rd package proposals and offered to take an active part in the further development of trading platforms and in developing market codes. CEFIC pointed to the strengthened powers of national regulators, enhanced transparency and improved TSO and regulator cooperation as particularly positive elements of the 3rd package. At the same time, it stressed the importance of long-term contracts for industrial customers and it expected measures to tackle market dominance. IFIEC stated that the 3rd package went a long way in addressing the problems which industrial consumers currently face, in particular it was supportive of ownership unbundling. Some additional efforts would be needed to improve interconnection management, access conditions and to examine the impact of ETS on power prices.
8. France expressed support for strengthened powers of national regulators and improved TSO cooperation. As an alternative to the unbundling proposals in the 3rd package it proposed the concept of regulated unbundling. Germany also stressed that alternatives and complements to further TSO unbundling should be investigated. It mentioned in particular the market coupling initiative of the pentilateral forum and a new German law requiring TSOs to give preference to new power stations in the connection to the network. Germany also noted that the agency and the different guidelines proposed in the 3rd package would be subject of discussion in the Council.

ERGEG's report on compliance with Regulation 1228/03

9. ERGEG presented their report on the compliance of market participants with the obligations under Regulation 1228/2003. The report concluded that full compliance has not yet been reached. The forum thanked ERGEG for the work done in monitoring compliance and stressed the importance of continuing this work. In particular, ERGEG was asked to resolve any outstanding issues regarding the interpretation of the existing obligations which appears to be a necessary condition to monitor compliance.
10. The Forum stressed that measures should be taken without delay in order to reach full compliance with the regulation. The Commission stated that with few exceptions it has not yet launched any infringement cases relating to Regulation 1228/2003. The Forum concluded that the second compliance report should be more specific and should allow the Commission to identify to what extent the legal requirements have been met by all market participants.

Transparency

11. The Commission reported on the results of the Transparency Working group convened to make rapid progress to implement ERGEG's guidelines as far as

possible immediately on a voluntary basis. The discussions in the WG helped to understand the key issues regarding the content and the implementation of a transparency scheme. However, the WG could not agree on a voluntary scheme to implement the ERGEG guidelines. A major point of disagreement was disclosure of plant by plant generator information.

12. The German regulatory authority reported on the work done in the Northern Europe Regional initiative. The main result was that an implementation schedule was adopted regarding the type of information to be published on the websites of TSOs and power exchanges and, as of 1 July 2008, on the ETSO Vista platform. The agreement in this region serves as an example for other regions, notably for Central Western and Central Eastern Europe. Eurelectric supported the regulatory approach put forward by the implementation group of regulators.
13. ETSO reported on the current state of the ETSO Vista data platform. ETSO concluded that TSOs are well placed to facilitate increased transparency in the market and that ETSO Vista constitutes a suitable tool to achieve a level playing field for providing access to relevant electricity data.
14. The Forum stressed the importance of a quick and coherent implementation of the existing transparency requirements. It called on ERGEG and ETSO to continue their present initiatives and encourage other market players to contribute to these efforts. The Forum invited ERGEG to further develop the transparency framework and ETSO to further develop the ETSO Vista web platform in order to make it fully compliant with the legal requirements. The Commission stated that the issue of transparency was too important to wait for the final adoption of the 3rd package. The present legal rules (as laid down in the regulation and the congestion management guidelines) need to be enforced and non-compliance would have to be followed up.

Update on Regional Initiatives

15. ERGEG presented a summary of the experience with the Regional Initiatives during 2007. It reported on the priority targets in each of the regions and the progress in achieving these targets. In most regions, the work has been focused on congestion management, balancing and transparency. With respect to the approaches to deal with these issues, ERGEG noted an increasing degree of convergence among the different regions.
16. IFIEC welcomed the report and commented that the main issue is the access to available capacity. It stressed that explicit auctions still held in the majority of cases. Loop flows took up too much physical capacity. Eurelectric pointed out the benefits of flow based allocation which is a complicated model. It expressed a concern about implementing flow based allocation to slow down the progress. It concluded that there is indeed progress as regards regional initiatives but it takes place at a different pace and in different directions. It referred to the positive examples of the pentilateral forum and the Nordic market. The approach should concentrate on quick wins and implementation. EFET welcomed the work done by ERGEG and acknowledged the progress made. It stressed that there are still two remaining gaps, in particular a time gap in market operation in between auctions

for differing maturities and the gap resulting from the different models applied by Member States where the price formation at the day-ahead stage is concentrated on a power exchange. ERGEG replied to these comments by referring to the role of the national regulators as catalysts and stated that the comments by IFIEC and EFET would be taken into account.

17. The forum welcomed the report of ERGEG on regional initiatives. The forum stressed that all Regional initiatives should be active in order to make coherent progress in the internal electricity market. Co-ordination by ERGEG of the Regional Initiatives was considered very important.

Regional co-ordinated congestion management, presentation by Consentec

18. The consultancy Consentec presented a study which it carried out on behalf of the Commission. The purpose of the study was to look what needs to be done firstly inside regions and secondly between regions in order to move towards a harmonised European electricity wholesale market in electricity.
19. ETSO welcomed the report and made the comment that if the TSO takes more risk it has the consequence that the final customer has to pay more. Eurelectric pointed out that integrating regions would create larger relevant markets in competition terms. DTe replied that it was unlikely that the definition of relevant markets would not change. ERGEG stated that the report identifies the most important milestones which are consistent with ERGEG's findings.
20. The Forum welcomed the report prepared by the consultant. It considered necessary that there is co-ordination of capacity allocation methods between various regions in order to allow emerging of a pan-European electricity market. Experience from the operation of the pentilateral forum could be used on a more general basis.
21. The Forum requested ETSO and EuroPex to write a common discussion paper before March 2008 to address the implementation of regional and interregional capacity allocation methods, in particular the governance of the bodies running the system and to address the technical, legal and commercial challenges implied by the Consentec target model. Other stakeholders were invited to contribute to the discussion and ETSO and EuroPex were invited to take particular account of the work so far done by EFET.

Security of supply

22. ERGEG presented the Regulators initiative for organising the reporting on electricity security of supply as required by the legislation. The Forum stressed that the reporting should be coordinated between ERGEG and ETSO, in order to avoid duplication of the work. The Forum invited ERGEG to continue work on monitoring and security of supply together with ETSO and other stakeholders, to organise a meeting with ETSO and Commission to discuss the practical arrangements and to report on the next Forum. Moreover, ETSO emphasised that it is important to improve the procedures to obtain permits to build new infrastructure.