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Jointly ACER/ENTSO-E

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Role of stakeholders in the implementation of network codes and related guidelines, and in particular the establishment of European Stakeholder Committees for network code implementation

Nordenergi, the joint collaboration between the Nordic associations for electricity producers, suppliers and distributors, welcomes the opportunity to comment on "Role of stakeholders in the implementation of network codes and related guidelines, and in particular the establishment of European Stakeholder Committees for network code implementation", hereinafter "the Consultation".

Nordenergi's key comments are summarized in the following bullets:

- Stakeholders shall have a part in the development of the implementing regulation
- Local expertise have to be part of the whole process, not only evaluating European results
- The stakeholders, the Transmission System Operators and the Regulators need to have a balanced representation in the setup of committees, expert- and implementation groups.
- The implementation of the Network Codes is in all essential ways local. Thus we find that ACER should assure that Network Code –specific stakeholder groups are set up regionally to avoid situation where the process is too centralised. Nordenergi considers appropriate to set up three European level stakeholder groups for high level policy discussions and to follow the regional work, and regional network code –specific groups for the actual implementation work.

Nordenergi emphasises that the issue of consistency and transparency of the various processes concerning the involvement of stakeholders is crucial. The processes regulated in the network codes regarding the establishment of stakeholder groups and the open public consultations need to be followed. We consider that this consultation addresses only issues regarding the establishment of stakeholder groups. We consider open public consultations as equally important, but we will only comment on the suggested structure for stakeholder groups.

With regards to the proposals of structure:

"serve as a platform to share views on network code implementation and monitoring"

Nordenergi thinks that this view expresses only part of the role stakeholders can and should have. We think that neither the TSOs nor the Regulators have all the knowledge necessary to create efficient legislative measures. Thus stakeholders should have an active role in the formulation and implementation of NCs. One example could be the on-going process within the Nordic countries, investigating of whether the Nordic region should switch to the flow based capacity allocation method. The Nordic TSOs are running the project more or less in complete isolation, the stakeholder "involvement" being very limited. Data and results are presented on a "need-to-know-basis", and modelling assumptions and modelling strategy is designed behind closed doors. Yet since flow based has the potential to profoundly alter the power markets, the market participants knowledge on different management of various generation assets (hydro, thermal, nuclear), price setting and other market dynamics, would be very valuable to design a functioning model. In addition, the cost and opportunities with a change to flow based are mostly faced by market participants, so they should be heard from the beginning. Furthermore, we suggest greater regulatory involvement, since they should be able to monitor the available capacity also in the future with potentially increased complexity due to flow based methodology.

"define responsibilities to ensure clear leadership"

It is somewhat unusual that the regulated entity gets to draft the rules concerning its own area of actions and it raises questions with regards to the impartiality of solutions. In order to safeguard all interests Nordenergi asks ACER and ENTSO-E to consider a different chair for the committees. In our view the regulators or independent third parties should chair all committees with ENTSO-E playing an important secretarial role.

"ensure close links between the different groups"

First, the consultation assumes local structures with which the proposed stakeholder committees would cooperate. Nordenergi urge ACER to also put pressure on the National Regulatory Agencies and the local TSOs to actually set up these regional structures. As exemplified above, the record for stakeholder involvement is currently patchy and very issue dependent, even though the information flow has increased somewhat.. In addition, introduction of regional groups could be relevant for some codes, for example for the CACM where capacity calculation regions are explicitly mentioned. Regulators in the region should assess whether regional groups should be introduced in addition to national ones. National and regional groups would ensure access to valuable national and regional expertise and take into account the existing differences in the European power sector. In addition, the way these national and regional groups would liaise with the stakeholder committee should be outlined.

Second, there are already existing entities in Brussels dealing with the overarching common themes. Nordenergi does not fully comprehend how the proposed structure would 1) make use of the existing platform, and 2) be able to create committees able to handle the level of detail necessary in the implementation phase. There's a big threat, that the proposed committees involve a very limited and biased scope of views. Interaction with the suggested expert groups could compensate for that. That however requires to pay a lot more attention to the structure of the expert groups than proposed in these papers – these expert groups, as the committees, then need to be representative, balanced etc. also geographically.

In conclusion, Nordenergi proposes that the drawing board for these processes is turned upside down. First start with the regional processes and then consider the appropriate EU-level that ensures convergence and that the intent of the legislation is realized.

Yours sincerely,

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Chairman of Nordenergi