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E.ON Position on

**ACER's pre-consultation on "Energy Regulation: A bridge to
2025"**

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Düsseldorf, 16 June 2014



1 General Remarks

E.ON welcomes the consultation by ACER on the challenges the European energy market will face after 2025. However, before introducing new market rules for the challenges beyond 2025 all resources from European and national authorities should be bundled on the fast implementation of the third package and the implementation of the electricity and gas target model. The implementation of the third package is well behind the originally intended time schedule and the measures have to take effect before deciding on new ones. The current main issues are aside of harmonized market rules and products the fast growing share of renewables and their impacts on the electricity wholesale market, the profitability of thermal plants needed for generation adequacy, the security of supply of the electricity market and their impact on the gas infrastructure. Within an unbundled market system the issue of security of supply in the electricity and gas market remains unclear. Therefore, we would like to emphasize the need at least for a regional coordinated approach on capacity remuneration schemes which is required now and not only for 2025. Renewables leaving their market niche and becoming a dominant element in the market must react upon market signals. Ownership unbundling should not be considered as the current rules on unbundling according to the 3rd package prove to provide sound basis for non-discriminating DSO-market-interaction as ACER itself states within "Bridge to 2025". E.ON therefore suggest that ACER and EU-COM should rather focus on a EU-wide and strict implementation of the third internal market package without exemptions. National energy policies should be aligned and the EU ETS be enforced enabling a price signal to reach the climate objective without distorting the market. E.ON would also like to point out to the significant effects of national taxes and levies on the consumer prices which are not mentioned by ACER in the paper although this development thwart and even overcompensate the positive effects gained by increased competition.

We would like to comment on the published paper in more detail according to the given sectors.

2 Specific Remarks

Electricity Wholesale Markets

- E.ON fully supports the full integration of wholesale markets in all time frames including a harmonized ancillary services market. Significant resources should be focused to reach these objectives.
- Therefore, we agree with the proposed actions on this sector. Additionally, we would also like to underline the need for the following measures aligned between the EU COM, ACER and the Member States:
 - Avoid market interventions by imposing certain taxes and levies on energy companies and generation hampering the economic operation of existing generation units and investment decisions on new generation.



- Give trust, that market rules are stable over a long period and not changed every few years (subsidies, support mechanisms, price caps, etc.)
- Align and coordinate energy policies at least at regional level with neighboring Member States, including CRMs and cross-border participation
- **Renewables should be integrated into the market;** react upon market signals and become balancing responsible as soon as possible. The support scheme of mature technologies should be phased out by 2020 and for immature technologies the support should be determined in a market-based process. Retro-active changes should thereby be avoided that otherwise would undermine investor's trust.
- From our point of view CRMs are required as a new element in the future market design to ensure generation adequacy in the long term. If designed in a non-discriminatory and competitive way it will compensate exactly for the 'missing money' needed to ensure that the required capacities are kept available and will create an additional product parallel to the commodity electricity. As the European wholesale markets today are strongly interlinked with each other, a EU-wide coordination in the context of CRMs is required to consider cross-border impacts. In this context generation adequacy, flexibility and local grid congestions should clearly be distinguished in the discussion. A CRM addresses in our perspective the long term adequacy issue while flexibility should be addressed by the Day Ahead, Intraday and Balancing Markets. Additionally, flexibility services will have to be developed for system operators within a smart grid framework. The EU COM and ACER should pursue the intended improvement and harmonization of the balancing market and enable cross-border solutions. The CRM which rewards capacity available during times scarcity is only efficient (i.e. cost efficient for the consumers in the consequence) on the long run and thereby be sustainable if designed in **non-discriminatory and market-based** way, i.e. non-discrimination between different technologies, between generation, storages and demand response and between existing and new capacities. Negative impacts on the adjacent wholesale markets and other markets are avoided or reduced if the focus is solely on generation adequacy and allows cross-border participation.
- Although ACER accepts the evolution of CRMs it still shows a reluctant perspective on the introduction. E.ON is aware of the risks associating with designing a capacity mechanism. However, the EU COM and ACER should ensure a least **coordinated approach on a regional level and cross-border participation** to ensure that the capacity is used in an efficient way. Otherwise, technical details are harmonized on a European level but market designs fall apart across Member States.

Gas wholesale market

- E.ON shares ACER's analysis on the challenges for the gas market on gas demand and supply as well on the role in providing flexibility and the proposed open approach.
- However, E.ON would also like to initiate the discussion within an unbundled world on security of supply and reserves in case of supply disruptions. As the supply chain of the gas market has



always been international, a European concept is needed to address that issue. A pure national perspective would neglect the existing infrastructure designed for European purposes and distort the market.

Infrastructure

- An efficient development of Europe's infrastructure is crucial for the completion of the European energy market. As ACER identified the development should be done in a **market-based and in the most efficient way for the consumers**. Efforts in the European coordination and further improvements in the **planning and approval procedures** should not be slowed down. Thus, ACER should strictly monitor the implementation of the requirements laid down in the EIP in the Member States.
- Also the changing role of DSOs should not be neglected. The **major part of the future investments is required in the downstream sector** at which most of the decentralized energy is connected and demand response potential to be unlocked. Therefore, an appropriate regulatory framework is required enabling **innovative solutions** and these large investments.
- To cushion the increase of the grid costs and finally the grid tariffs paid by the customers, DSOs shall ensure that grids are able to accommodate distributed generation and loads in a value-optimized way. I.e. that DSOs should have the option to procure flexibility services for network management tasks to allow an improved operation and utilisation of the distribution infrastructure. However, the procurement costs of these flexibility services have to be compared and implemented where it is cost effective compared to network upgrade, or as an interim solution until upgrading has occurred.
- This can be achieved by defining clear roles and responsibilities for all parties involved with no gaps or overlaps. In particular the changes in generation (from bulk generation to decentralised generation) will need to be accompanied by new tools and methods and clear responsibilities between TSOs and DSOs to deal with system integrity and security of supply.
- From a DSO perspective a fair rate of return is essential – the national regulatory frameworks must be changed accordingly and also consider the long-term perspective, incentivising the development of Smart Grids including RD&D and allowing DSOs an adequate return on these required investments. The increasing share of decentralized energies may also require a structural change in the network tariffs towards a higher share of the peak load or capacity part and lesser share of the energy or consumption part of the price.

Energy sector trends

- The liberalization and European integration of the energy market should be for the benefit of the European consumers. Therefore, they should be in the focus of all considerations. E.ON backs the perception that consumers should be in the position to have full information on their

consumption and profit from options to actively participate in the market by demand response service and energy efficiency.

- Much progress in retail sector in the context of transparency, **supplier switching** process and consumer rights have been made during the last years. In the most liberalized markets consumers can choose between a large number of electricity and gas suppliers and receive information on the offers easily via comparison websites and by consumer organizations. Supplier switching is made easily. In this context we would be cautious to shorten the supplier switching to 24 hours by 2025 considering the technical and contractual constraints. Once the technical prerequisites are installed and the relevant data can be exchanged faster between the DSO, the old and new supplier, the switching period may be shortened. But on the other hand the contractual checks and balances have to be considered to protect the consumer from erroneous transfers or mi-selling practices.
- There are still a large number of Member States which applies **regulated tariffs** for all consumers or large parts of them. In most of the cases the energy price is kept on an artificial low level below the actual market price. As ACER stated this hampers competition and options for the consumer to take actively part in the market. Much more attention should be paid to this problem and a road map should be developed for phasing-out of regulated prices. Without fully liberalized markets consumers will not be able to benefit from competitive pressure leading to low costs, improved services and innovative products. The incentives for the development of demand response services will be low in this environment.
- The development and implementation of **new retail products may also require the appropriate regulatory framework** in terms of large-scale roll-out of smart meters with standardized functions and interfaces to avoid stranded costs.
- Also **taxes and levies** comprise in some countries more than half of end consumer prices. Adding regulated grid tariffs a smaller part of the end consumer price is linked to wholesale market prices. Often the consumer do not benefit from the declining wholesale price as the regulated parts more than compensate the price effect.
- **Demand response** should continue being part of the competitive market. If DSOs require flexibility it should be procured in the market with a local component, regardless if it is provided by thermal generation, renewables, storages or demand response.
- The new role in the future will enlarge the scope of activities for DSOs. In order to guarantee neutrality towards market parties ACER proposes to introduce an **ownership unbundling for DSOs**. In our point of view strict legal and functional unbundling are leading to the same result. Ownership unbundling should therefore not be considered. The current DSO and TSO rules on informational unbundling are nearly identical. The focus on NRAs should be on monitoring the transparency, non-discrimination of market participants and correct handling with sensitive information. Therefore, we strongly support ACER's proposal that all unbundling rules should



strictly and timely be implemented in all Member States and believe a main effort should be to reduce exemptions.

- In contrast to ACER E.ON does not share the statement that DSOs should not be able to use advance access to data to gain commercial advantage. When assessing whether **data services** could be better offered by third parties it should be taken into account that data protection is ensured and that DSOs have timely access to correct data flows enabling the operation of the grid in a safe and secure manner. One may doubt if the establishment of a third party which also have to prove towards the NRA to act in a non-discriminatory way and ensure data protection is an efficient measure to the benefit of end consumers. The same argumentation can also applied to other services offered non-discriminatory to all market participants including other DSOs.



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