ACER

Agency for the Cooperation of Energy Regulators

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GDF SUEZ input to ACER's Public Consultation PC_2014_O_01: "European Energy Regulation: A Bridge to 2025" (29/4/2014)

GDF SUEZ welcomes this consultation that will deliver a useful insight what should be the main policy issues to be addressed by ACER in the coming years.

In our answer, we will address the 4 questions. On the first question, we only highlight some points as discussed under section 2, 3 and 4 of the consultation paper. The 3 other questions are discussed starting from the annex of the consultation document.

Question 1: Have we identified correctly the issues and trends within each area of the energy sector ?

Integration of wholesale markets

2.2: We cannot agree more with ACER: it is essential to have the target model fully implemented guided by existing processes and by the network codes. In particular, it is urgent to implement the intraday and balancing cross-border trade in order to be able to cope with growing intermittency in the system.

A. Energy sector trends: Electricity wholesale markets

Renewables growth driving changes in generation

2.4 and 2.5: we agree on the less predictability of some renewable technologies, however, the changes in output are not necessarily much larger than we experience in the current system. Forecasting tools are improving all the time. The flexibility tools (amongst others via demand side participation, cross-border intraday trade, additional interconnections, ..) are also expanding quite fast. We are aware that ENTSO-E is claiming that there is a lack of flexibility, but we would suggest ACER making more analysis in depth on the real needs, and on the potential further developments of tools (like demand response) to cope with. It is also important to have the right value discovery of flexibility via the balancing markets. We therefore fully support ACER's opinion with regards the balancing network code for a "marginal pricing" settlement in all markets, creating the right incentive to BRP for having their portfolio balanced.

2.7 and 2.8: In our opinion, the best way to avoid distortions via CRM is to organize them on a regional (or even EU-wide) basis, CRM are a new element of the market design, that is needed to ensure that plants that are not longer economical profitable, but that are still needed to ensure the adequacy of the system, are kept in the system.

We share with ACER the concern of the raising risk for stranded assets for gas as expressed in the point 2.17. However, this risk already occurs in the electricity market with gas fired power plants. Gas assets are currently mothballed and/or decommissioned while a large part of them remain needed for adequacy purposes. This problem can be solved by introducing a market based CRM complementary with the energy market.

CRM at the same time can be an incentive to demand side or other tools to deliver an equivalent "capacity" service to the system. In the current situation, mainly (flexible) gas plants are pushed out of the merit order and might for economic reasons the system. Gas plants however deliver both "reliable capacity" and "flexibility" to the system.

B: Gas Wholesale Markets

Gas markets integration

2.10, 2.11: GDF SUEZ supports ACER focus on implementation of the network codes and particularly on cross-border cooperation. Indeed, implementation difficulties should not be overlooked, especially in a context where some countries make unilateral implementation choices, and where shippers holding long term capacity bookings have no solution to adapt to the new regulatory context.

The reset clause proposed by EUROGAS, EFET, OGP and Eurelectric is in our view indeed the most efficient way to solve most implementation issues.

The gas market's role in providing flexibility.

2.18: With the integration of wholesale markets we should also pay more attention on how the wholesale market for electricity and gas can be more integrated. Gas fired power plants are needed to deliver flexibility in the electricity market. Flexibility tools in both markets have to be sufficiently adapted to each other.

Consumer concerns

2.23, 2.24 and 2.25 GDF SUEZ fully agree with ACER considering the fact that consumers should be encouraged and empowered to take the full advantage of new and emerging technologies that will allow them to respond. It is worth noting that this will change the framework of the current retail energy market and we require a clear definition of the role of each actor, in particular for new actors like a "third party aggregator" (i.e. an aggregator independent from the supplier of the customer). This could clarify the place and will allow each stakeholder to interact in a level playing field.

Technological advances

2.33 and 2.34: We support ACER's view that DSO need to remain fully neutral actors in the market and leave competitive (non-regulated) actors supply new services. DSOs and TSOs should interact with defined market actors (suppliers, aggregators, ESCOs) but TSOs/DSOs should not intervene in competition with them towards the customers. Mandatory interventions (to change off take or injections of customers) could be allowed in strictly established emergency situations.

3 Actions for Europe's regulators

A Regulatory impacts : Electricity Wholesale Markets

3.2: ACER points at enhanced designs of forward markets. It is unclear to us what ACER might have in mind with this statement. Forward markets exist since the early beginning of the liberalization. Market players offer to sell or to buy energy from each other in order to hedge themselves against (more volatile) spot prices. Many market places exist (broker platforms, bilateral deals, organized (more) financial platforms…). Many market products exist (baseload, peak load, options, …). Prices are the result of demand and supply. We do not see a need for regulatory intervention in these markets.

3.6: The reading of this section gives the impression that ACER considers also CRM as "non-market based support mechanisms". We would like to repeat our view that CRM have to be designed with market based principles. CRM are a new element of the market design, to ensure that plants (and other tools) needed for the adequacy of the system, remain in the system. In the second bullet of this section, ACER seems to believe that rewarding flexibility is more appropriate than CRM. We agree with ACER that flexibility services have to be rewarded properly in ancillary and balancing markets, however, in our view, this will not be necessarily sufficient to make all plants "profitable". Indeed, a generator has to make a trade off between offering his plant in the market to sell energy (commodity), or to sell flexibility. Once he has sold "energy", he is committed to deliver and cannot longer offer flexibility for the contracted part of energy. Or vice versa, if he sells flexibility, he is not longer able to control the full energy output and he can thus not longer make energy commitments. Generators will make decisions to maximise the revenues from both market segments (energy or flexibility). But if the plant does not cover its fixed operational and maintenance cost, it will be still subject to disinvestment decisions. Addressing the imminent adequacy problem first is a priority. Depending on the opportunities in both energy and flexibility markets, investors will consider to invest in more or less flexible assets.

3.8: we fully support ACER view on cross-border solutions to address the adequacy issues. It would not make sense to decommission plants in one member state and to build new plants in a neighbouring member state, only because the (administrative !) CRM design is different not allowing for cross-border participation. Therefore it is crucial to have simple definitions on what a CRM exactly does: it should only remunerate availability, and it should not require delivery of energy. When market prices are above the marginal cost of plants, by definition the plant will deliver energy at its connection point, helping to support the system to the extend it is allowed to supply.

3.22: it is indeed key to develop cross-border redispatching methodology and the appropriate cost-sharing tools between involved markets. We believe this domain is insufficiently explored so far, it should have a much higher priority than the review (towards smaller ?) bidding zones, as it would foster and keep liquidity in (larger) bidding zones. The problem on redispatching however is currently not well understood, as there is a lot of transparency missing how this redispatching is actually organised and what the real costs are. TSOs should be required to create much more transparency in this domain.

B Regulatory Impacts : Gas Wholesale Markets

3.11 : See our 2.10, 2.11 remark. In the future, focus on cross-border cooperation, both for TSOs and NRAs should be a priority, to avoid inconsistent scheme on each side of a border.

3.12: GDF SUEZ welcomes ACER focus on capacity calculation techniques. Currently, the problem is particularly critical because existing long term bookings constraints a lot TSOs freedom to adapt their capacities, and technical mismatches are created. The reset clause proposed by EUROGAS, EFET, OGP and Eurelectric is a key element to give more margins to solve existing mismatches.
In the future, capacity calculation should become a more important issue with more volatile cross-border flows. A coordinated, coherent, transparent and flexible scheme, giving sufficient forward visibility to shippers both in the short and medium term, should be key to optimise the use of available infrastructure.

3.15, 3.17: GDF SUEZ supports the views of ACER on the risks of creating stranded assets and of triggering a negative spiral if too many investments are decided. As specified in 3.21, investment should be driven by clear market signals and minimum socialisation. Where needed, cost benefit analysis should be conducted in a very strict manner, and conservative hypothesis should be taken for instance when considering gains related to increased liquidity because this gain is in any cases very difficult to anticipate.

D Regulatory Impacts :

Consumers, retail markets and the role of DSOs GDF SUEZ fully supports the role of suppliers as single point of contact for its customers and a core role for DSOs as neutral market facilitator in a clear market framework.

An appropriate framework for energy customers.

3.26, 1st bullet: enhancing transparency; offers should easily be comparable (for example by presenting all costs as a projected unit price):

- General comment on transparency: we agree with the importance of transparency and information since it's also in supplier's interest that consumers can make informed choices and there should be a level-playing field. However the wish to increase transparency should not lead to overregulation that stifles innovation and competition and/or de facto increases complexity (e.g. further regulating energy bills the content of which is already strongly regulated or ideas to limit the number of tariffs per supplier, etc.).
- In some markets (e.g. the Netherlands), part of the transport tariffs are included in the gas prices, making it difficult to compare the commodity prices as such.
- On the proposal to present all cost as unit price (e.g. ct/kWh) we agree for instance in price comparison tools but it is not evident to do it in a supplier offer to customers, since it will have to be based on assumptions regarding the energy consumption of the relevant client and thus this "artificial" unit price can't be guaranteed. There is moreover a trend whereby suppliers "packaging" energy with other services, potentially at a "flat rate" price; also, costs of the energy system are more and more based on fixed cost (i.e. €/kW) which sooner or later also will

be reflected in retail tariffs. Also: more dynamic tariffs and changing consumption patterns due to autogeneration and demand response will make it very difficult to provide a realistic estimate of an (average) unit price.

- As conclusion: transparency is important, but it should not lead to over regulated bills, offers, contracts, format of prices etc.

3.26 3rd bullet: switching periods to be reduced to 24 h (by 2025) : we wonder whether this is realistic and whether customers are really asking for this. Furthermore, an agreed contract period between a supplier and a customer should be (under normal circumstances) respected by both parties in the contract.

3.26 7th bullet: addressing the needs of household "prosumers" as participants in the market for distributed energy: we agree these prosumers will have to be integrated in the market (at the moment they are often not, since they are remunerated by feed-in tariffs and/or net metering), but integrating in the market should be based on a level-playing field meaning that prosumers should bear (directly or indirectly via (in most cases a discounted) buy back price of energy they sell in the market) to balancing responsibility, to the needed grid services, to the grid capacity they need in both positions as consumer/autoproducer, etc. Indeed, some of these services are in the current models hidden and finally paid by the "other" customers, e.g. because of increased grid costs.

3.26 8th bullet: guaranteeing high customer services levels through minimums standards along with compensation arrangements: this should not be a door opener for regulating, penalizing, etc. We believe it should be left up to competition : customers that are not satisfied with the level of services can switch to other suppliers, and some customers might prefer products with lower cost and a lower service level, setting minimum levels might not be appropriate for them as they would be "obliged" to buy then (more expensive) products they do not want or need.

3.26 9th bullet: regulators to improve their understanding of consumer behavior, their different needs and strengths: we believe that this is an essential task of suppliers. We understand the scepticism expressed by regulators on the appreciation of companies by customers (§2.25), however, it is up to suppliers to rebuild thrust relation with their clients.

Enabling the market in demand response

3.29: We agree with ACER that new relationships between service providers (like aggregators) and customers will be needed. But not only between aggregators and customers, but also between aggregators and suppliers/balancing responsible parties. Indeed, actions of aggregators should be communicated also to the suppliers, and commercial agreements between aggregators and suppliers will be necessary to create an appropriate cooperation between these market actors, in particular when it comes to verify imbalance positions, valuation of diverted energy, …

Role of DSOs

3.33 (and 3.36): Indeed the role of DSOs will grow up and need to be clearly defined. Electricity DSOs might be confronted with more congestions or voltage problems and gas DSO with quality or technical issues regarding bio methane injections in their grids. This kind of activities will change the nature of contacts that DSO have with customers and this could make them acting like market actors, losing their role of neutral market facilitator. DSOs should set up platforms where aggregators and/or suppliers could offer flexibility services they have contracted with the customers. This would enable DSOs (and also TSOs) to buy at market price these flexibility services without being directly a market counterpart by using access to consumption data to gain commercial advantage. GDF SUEZ strongly supports the full implementation of the Third package as a starting point in order to anchor the neutrality and non-discrimination of the DSOs across Europe.

We would also like to address 2 comments related to Gas DSOs, mainly related to injection of bio gas, as e.g. observed in discussions we see in the Netherlands.

> We become aware that some gas DSOs can be confronted with congestions due to the injection of biogas during especially low demand periods (summer).
>
> Biogas is also injected in local distribution grids, and might lead to specific problems of gas quality. Where generally speaking gas quality at entry points of the transport grids is monitored closely by TSOs, this might be more difficult for these local injections, creating both possible commercial and safety problems due to different quality.

Encouraging efficiency through dynamic pricing

3.37. Time-of-use pricing in gas and electricity markets could reflect the accurate value of energy and therefore could be very useful to empower consumers. This should allow suppliers and DSO to offer – respectively - dynamic pricing and dynamic (regulated) transport tariffs in an appropriate environment.
4 Implications for governance

4.10 : We agree with ACER that ENTSOs governance might need some clarification: as ENTSOs has been allocated a “drafting” role for network codes, the position of ENTSOs as “drafting body” and of ENTSOs as “TSO association” have been perceived as being mixed up too much. There should be more “distance” between the “network code drafting body” and the “TSO association body”. In particular, the proposal that TSOs should be allowed to bear limited, duly remunerated and controlled amount of risk could help to considerably optimize the system.

4.12: We agree with ACER that activities performed by actors like PXs in order to achieve tasks that belong to the TSO responsibilities (in particular congestion management via day ahead, intraday, balancing, ..) should be subject to a set of supervisory rules of the NRAs.

4.13: And we fully agree that Regional Security Coordination Centres should evolve to maximum one by synchronous area.

Question 2: Have we identified an appropriate regulatory response ? We list the proposed regulatory actions in the annex of the consultation paper, and express in a column our view
Question 3: Which regulatory actions are most important and should be prioritized ? We list the proposed regulatory actions in the annex of the consultation paper, and give our priority view for the main power and governance topics.
Question 4: Are there any other areas where we should focus ? Some additional points are mentioned

Possible regulatory action	**Category**	**GDF SUEZ view**	**Priority**
We will place great emphasis on the need for the rapid implementation of the present electricity Target Model across all geographies and market timeframes and commit to review the need for any changes.	E	Agree	HIGH (4), to be clustered with the governance of PXs (bodies performing pan- European functions)
We will undertake further analysis to develop and improve the common European balancing target model defined in the Network Code.	E	Agree, we believe this should make part of the current work in the network code balancing.	HIGH (3)
We will proactively advise on the design of interventions so that the goals of security of supply and competitive markets are met as far as possible	E	It is important to realise that CRM are a needed new part of the market design, in order to ensure that power plants needed for the adequacy of the system, remain in the system. CRM should be designed market based, allowing for fair competition between all resources (generation, storage, demand side, ..) to provide the service and be an element complementary to the energy market.	HIGH (1)
We will support the development of Regional Security Coordination Centres and investigate the opportunities for these eventually to merge into a single European Security Coordination Centre, or one per synchronous area	E	Agree, we understand that merging TSOs is a difficult and long path, but for the essential functions (security), they should act as one, RSCC are a major step in this process.	
We will review the Gas Target Model to ensure that it remains a flexible regulatory framework for gas wholesale markets, identifying the most appropriate measures to develop liquidity in all markets and timeframes including possible tools of market	G	Agree, but focus on implementation of current or on discussion network codes is the priority.	

integration			
We will further consider changes to market arrangements that are required to ensure gas markets meet the needs of the electricity market.	E/G	Agree	
We will map out a framework covering the required commercial, regulatory and standardisation aspects necessary to facilitate the market in demand response.	E	Agree, in particular the role of aggregators and the additional framework has to be clarified	HIGH 2, to be clustered with next for power
We will consult on the future role of DSOs, including consideration of the appropriate degree of unbundling.	E - G	Agree, DSO should not become market actors	HIGH 2, to be clustered with previous for power
We will consider whether the current de minimis limit applying to DSO networks should be revised.	E	No position	
NRAs and ACER will work with DSOs and TSOs to allow them to more clearly define the respective roles and responsibilities that enable DSOs to manage their networks in a transparent and reliable way whilst also supplying system services to TSOs	E	Agree	HIGH 2, to be clustered with above
We will assess whether additional incentives are needed to promote necessary (but higher risk) investments with significant social benefits and, if so, how such incentives should be funded.	I	Very rigorous cost benefit analysis is required. The risk of triggering a negative spiral is high. In particular, social benefits linked to increased liquidity should be assessed in a conservative way, as any investment impact on liquidity is very uncertain, and as assessing associated gains is also very difficult.	
We will consider whether to develop and deploy output-based incentive mechanisms to encourage efficient operations and investments by DSOs and TSOs.	I	Agree	
We will continue to identify barriers to entry in national retail markets and examine how they can be removed.	C		
NRAs through CEER will further develop the CEER-BEUC 2020 Vision principles into practical actions as to how the future regulatory framework might evolve to enable market developments across Member States while continuing to protect and empower consumers.	C	Agree	
We will review the process for the development, modification and enforcement of network codes to ensure that it is effective and that the present governance arrangements are robust to the future pace of change.	E/G	Agree, the process for reviewing network codes should be prepared as soon as possible	HIGH (5), to be clustered with review process of governance of ENTSOs

We will consider the appropriate governance arrangements for the ENTSOs.	GO	Agree	HIGH(5), to be clustered with previous
We will assess the appropriate level of regulatory oversight for power exchanges and other market coupling operators, and trading and capacity allocation platforms.	GO	Agree	HIGH (4), to be clustered with the first proposal
We will assess whether bodies performing pan-European functions are regulated adequately and proportionately.	GO	Agree	HIGH (4) to be clustered with the first proposal
We will, within the ambit of our responsibilities and resources, consider the participation of NRAs of relevant countries outside the Union willing to develop regulatory arrangements compatible with those applicable in the EU.	GO	Agree	
We will consider offering training modules as part of its future collaboration with Third Countries subject to the availability of resources including financial support by the European Commission.	GO	Agree	

ADDITIONAL regulatory actions from GDF SUEZ point of view	**Category**	**Argumentation**	**priority**
Emphasis on proper implementation of present Gas network codes	G	Some difficulties are present on some key aspects of present network codes (bundling, CMPs), notably due to lack of cross-border cooperation, and tariff code shall create more difficulties. If correction measures are not taken, these difficulties will imply largely suboptimal use of capacities, and discrimination against some actors. The reset clause proposed by EUROGAS, EFET, OGP and Eurelectric is the most efficient way to solve most implementation issues.	High
Improvement of transparency TSO's for cross –border capacity calculations (e.g. in case of Flow based), and for redispatching activities	E		
For gas cross-border capacity calculation, improvement of transparency and of coordination between neighbouring TSOs	G		
Harmonise and avoid double reporting obligations (REMIT, EMIR)			
With the introduction of smart metering the amount of data will increase a lot. Additional regulation for data handling/ data management will be needed.	E/G		

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