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Brussels, 16 June 2014

Response to public consultation on the ACER Green Paper “Energy Regulation: A Bridge to 2025”

Orgalime, the European Engineering Industries Association, speaks for 40 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10.3 million people in the EU and in 2013 accounted for some €1,804 billion of annual output. The industry not only represents some 28% of the output of manufactured products but also a third of the manufactured exports of the European Union.

This industry supplies technologies throughout the entire energy value chain, from generation, transmission, distribution to (private and industrial) end use, while it depends on reliable and continuous access and availability of energy at cost-reflective and efficient prices for its own manufacturing processes in Europe. The industry is also the target of the Eco design and Energy Labelling Directives, for which implementation is ongoing for some 46 product groups of our sector.

The European engineering industries would like to provide the following comments to ACER’s priority questions subject to stakeholder consultation with the request for taking them into account in the further proceedings.

QUESTION 1: Has ACER identified correctly the issues and trends within each area of the energy sector?

Orgalime feels that the trends and issues as outlined by ACER in section 2 are generally correctly identified.

However, we suggest putting more emphasis on the energy retail market, especially for not only encouraging but also empowering consumers to participate in the energy market. Particularly, Demand Side Flexibility bears significant potentials for increasing the overall efficiency of the EU energy system, integrating an ever higher share of Renewable Energy Sources and realising cost savings for private and industrial consumers.

In both, wholesale and retail markets, demand response needs to be centred on fair reward to consumers for demand flexibility. Therefore, we would recommend that ACER should look at flexibility not only as a “concern” as described in beginning of **Section A** but as a possibility, as it is in - our view - rightly done in **paragraph 2.9**.

The development of a mechanism for the implementation of self-production schemes and the recognition of the role of the aggregator would enable consumers and SMEs to better control energy consumption and costs, which could be better perceived as a trend in the Green Paper.

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We welcome the section on “Technical advances” and respectively **paragraph 2.28**, but we would like to emphasise that the technologies for providing more added value to customers are mostly in place and already available. Actually, the European Commission in their recent Public Consultation on the Retail Energy Market confirms this and agrees that the market now needs to open up and adapt to new production and consumption patterns, as well as a different role and evolving expectations of the consumer.

Finally, in the light of recent political developments, we suggest mirroring the increased relevance of security of supply aspects in EU energy policy, and the substantial role that energy efficiency can and has to play to support Europe’s energy independence next to its competitiveness and sustainability.

QUESTION 2: Has ACER identified an appropriate regulatory response?

Orgalime supports a well-functioning retail energy market that offers consumers the means of managing their energy procurement and consumption as well as controlling their energy costs. This should increase consumers' trust in the energy sector. The role of consumer is crucial for the future energy system - the consumer (“prosumer”) needs to have the right to decide. Therefore, we welcome **paragraphs 3.27 and 3.28** regarding removing barriers in Europe’s retail market, but would recommend acting swiftly in removing them.

The ACER/CEER Annual Report concludes that consumers are dissatisfied with the information they receive in their contract and in their bills. Switching should be made easier and faster. Flexible tariffs are in our view needed to reflect the real costs of energy. Energy bills should become more meaningful and transparent. The status of aggregation still needs to be recognised in many Member States and remaining barriers should be removed. Hence, Orgalime welcomes **paragraph 3.26** of the Green Paper on considered actions for domestic consumers, and would recommend accelerating their implementation.

We also endorse that ACER took into account the CEER-BEUC 2020 Vision, developed to ensure that the consumer remains at the heart of the energy market and the central concern of regulators, and we encourage regulators to swiftly translate those principles into practical actions within the future regulatory framework, as outlined in **paragraph 3.25**.

Orgalime supports **paragraph 3.29** on enabling the market in demand response, but would encourage ACER to do more than proposed, allowing to fully tap the potential of demand response, to boost it across Europe and to remove all barriers need to be removed (see Orgalime Position Paper to the [CEER Consultation on Demand Side Flexibility](#))

Demand response helps to balance the energy system by absorbing extensively available electricity supplied at very low prices while optimising the energy consumption at peak times. In practice, this would mean that consumers use electricity when it is cheap, while saving it or selling what they produce when it is expensive. Alternatively, they can be directly rewarded for helping to reduce the burden on the grid, and this should be reflected in the regulatory framework. While demand response has started to evolve for bigger commercial and industrial units/loads, it is much less used by residential consumers and SMEs. In order to make full use of existing flexibility potentials, energy service companies (ESCOs) should be developed so that they could offer integrated contracts for consumers on flexible loads, energy efficiency, small scale generation and energy storage. Smart metering gives a huge variety of new business opportunities for these service providers.

Thus, overall (national) energy policy frameworks should treat demand side flexibility on equal footing with generation and in a transparent and non-discriminatory manner. That is because flexibility can be provided by both, supply and demand, on a large scale.

Achieving the full potential of flexibility will require a market design that rewards the provider of flexibility for the benefits it brings to the system. Small industrial, commercial and residential consumers must have the means of accessing the wholesale, balancing, reserves and other system services markets.

We believe that network codes, including in particular the Demand Connection Code and Balancing Code, need to reflect the relevant business case without mandatory shut off of appliances and with rewarding the consumer for his flexibility.

Market design refers to the way, the roles, responsibilities and interaction of electricity and gas market actors (including distribution system operators, energy suppliers, energy service companies, new market entrants, aggregators and consumers) are organised in a country or region. Decisions on market design also influence the scope and degree of competition in the market. We argue that there is too little competition in the retail energy market due to an insufficient regulatory intervention and unfavourable market conditions, including the market domination by only a few market actors in certain Member States.

On section 3. C “Regulatory Impacts: Infrastructure deployment”

Orgalime advises strongly speeding up the implementation of the European Infrastructure Package’s Projects of Common Interest (PCIs) from the first Union wide list. ACER and National Regulatory Authorities (NRAs) should accelerate in finding the assessment of risk and cross border cost allocation to facilitate a swift implementation of PCIs for overcoming bottlenecks, monopolies, pursuing more integration, bringing islands closer together, and promote storage possibilities and smart grids projects.

We also encourage ACER to support the recent Commission proposal for an extension of the current interconnection target to 15% by 2030.

On Section 3.D “Role of the DSO”

We acknowledge that DSOs have a specific role in their key task of distributing energy, which should be reflected in the future energy market under business models operating smart grids. We are of the opinion that the requirements for DSOs to efficiently fulfil their tasks should be independent from supply activities and a clear definition of the roles of DSOs and TSOs as well as a clear definition of the DSO’s relationship with suppliers would be helpful.

An ACER guide on the role of the DSO, as proposed in **paragraph 3.32**, should in our view encompass the definition of the following: billing, data management, balancing of the local grid, distribution generation and demand response as well as self-production and net balancing.

On data management, fair access to data must be guaranteed to aggregators and new entrants to ensure the development of competitive services to the benefit of the consumer. We prefer market models, which foresee that the consumer or a market actor designated by the consumer should manage the consumption data flows.

Consequently, the principles as described in **paragraph 3.32** that the DSO should act as a neutral market facilitator could only be the starting point for an evolving and innovative energy market. As the study of the European Commission found, “for national regulators the provision of a non-discriminatory market access and of a level playing field constitute the most important factors when deciding on whether or not an activity or task should be executed by DSOs.”¹

Orgalime strongly supports **paragraph 3.24**. However, we would recommend strengthening its message: DSOs should harness technological innovation by deploying the best available technology to the benefits of their customers. ACER and NRA must set up a regulatory framework thrusting investments in deployment of innovative technologies and treating demand and supply equally.

¹ COM 2014: “[The role of DSOs in a Smart Grid environment](#)”

We appreciate the improved coordination between DSO and TSOs, as suggested in paragraph 3.36 and would recommend that ACER and NRAs will speed up this process.

QUESTION 3: Which regulatory actions are most important and should be prioritised?

We believe that the completion of the internal energy market in combination with a series of actions, including the following, should be prioritised:

- Regulatory implementation and support for the immediate deployment of available low carbon and energy efficiency technologies
- We call on regulators to facilitate a swift implementation of Projects of Common Interest (PCIs) for overcoming bottlenecks, monopolies, pursuing more integration, bringing islands closer together, and promoting storage possibilities and smart grids projects. ACER and NRA should accelerate in finding the assessment of risk and cross boarder cost allocation.
- Consumers need to have legal certainty to access to demand response services and the participation of consumers in balancing markets must be legal.
- Switching should be made easier and faster. Flexible tariffs are in our view needed to reflect the real costs of energy. Energy bills should become more meaningful and transparent. The status of aggregation still needs to be recognised in many Member States and remaining barriers removed.
- Treating demand side flexibility on equal footing with generation and in a transparent and non-discriminatory manner would give important investment signal and encourage and empower consumers to actively participate in the market.
- In relation to **paragraph 3.24**, we would like to highlight that the DSOs should harness technological innovation by deploying the best available technology to the benefits of their customers. ACER and NRA must set up a regulatory framework thrusting investments in deployment of innovative technologies and treating demand and supply equally.
- Regulation should provide the framework for the efficient operation of DSOs and facilitate the development of new markets to the benefit of consumers, as **paragraph 3.31** suggests, including a proper definition of the role of DSO to overcome the current barrier of DSOs not investing in the upgrade of their grids.
- Public procurement, which links energy performance to functionality (to overcome the current situation that the cost of capital equipment is more important than savings to be gained over time through energy efficient equipment and technologies).

QUESTION 4: Are there other areas where we should focus?

Generally, Orgalime calls on regulators to open up the markets and adapt to new production and consumption patterns, as well as a different role and evolving expectations of the consumer, as technologies are already available to support this development.

When preparing the framework for demand response as described in **paragraph 3.29 and 3.30**, we would recommend taking into account overall energy policy frameworks that treat demand side flexibility on equal footing with generation and in a transparent and non-discriminatory manner.

CONCLUDING REMARKS

Orgalime is seeking a fully completed, interconnected, consumer centric future energy market in Europe. We support the liberalisation of the energy retail market as an important element of a well-functioning European energy market that allows consumers to enjoy the benefits of available, innovative energy efficiency and low carbon technologies and services. Consumers need to be able to achieve better control of their energy costs, consumption and overall autonomy through the

combination of decentralised energy generation, with energy management systems and smart appliances.

We welcome that the European Commission in their recent Public Consultation on the Retail Energy Market confirms that the technologies for providing more added value to consumers are mostly in place, and agree that the market now needs to open up and adapt to new production and consumption patterns, as well as a different role and evolving expectations of the consumer.

We support strong and independent National Regulatory Authorities (NRAs), which are not necessarily in place in all Member States today.

We invite the regulators to encourage retail models that facilitate greater involvement of energy end users and distributed generation (notably self-production and net balancing). The role of consumer is crucial for the future energy system - the consumer ("prosumer") needs to have the right to decide. Switching should be made easier and faster. Flexible tariffs are in our view needed to reflect the real costs of energy. Energy bills should become more meaningful and transparent. The status of aggregation still needs to be recognised in many Member States and remaining barriers be removed.

In the future energy market under business models operating smart grids, the role of DSOs should be limited to balancing and distribution of energy through the grid. DSOs should harness technological innovation by deploying the best available technology to the benefits of its customer.

Overall, ACER and NRA must set up a regulatory framework thrusting investments in deployment of innovative technologies and treating demand and supply equally.

We call on regulators to facilitate a swift implementation of Projects of Common Interests (PCIs) for overcoming bottlenecks, monopolies, pursuing more integration, bringing islands closer together, and promote storage possibilities and smart grids projects.

Network codes, including in particular the Demand Connection Code and Balancing Code, need to reflect the relevant business case without mandatory shut off of appliances and with rewarding the consumer for his flexibility.

For further information, please consult further Orgalime Position Papers:

[CEER Consultation on Demand Side Flexibility](#).

[Orgalime Response to Energy Retail Market Consultation of 16 April 2014](#)

[Orgalime Position Paper on 2030 Energy and Climate Change Framework](#)



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