



Publishing date: 22/09/2014

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Ihr Zeichen: PC\_2010\_O\_01  
Ihre Nachricht vom: 29.04.2014

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12.06.2014

## Statement of the schwaben netz gmbh regarding the Public Consultation Paper „European Energy Regulation: A Bridge to 2025“<sup>1</sup>

The schwaben netz gmbh is a regional DSO (gas), located in the south-central region of Germany. We manage about 6000 kilometers of gas pipes and stand for almost 100.000 gas customers, which are able to chose their tariffs between 178 retailers in our grid area. Back in the year 2013 about 30 % of our customers made use of changing their retailer. We realize a stable increase in grid customers<sup>2</sup> whilst the number of retailers in our grid area is also increasing over the time.

We welcome the opportunity to comment ACER's public consultation paper<sup>3</sup>. In our view it is important to analyse the interdependencies between the different sectors in the energy market and, to take into account the detailed knowledge of the various players in the market. Therefore we would like to highlite some points out of the view of a regional DSO.

ACER links the discussion of the roles and responsibilities of the DSOs with the question of the level of unbundling requirements and in the end with the legal form of the DSO companies. From our point of view, linking these aspects is not appropriate. According to the rules established under the 2nd (2003) and 3rd Energy Package (2009), DSOs are obliged to apply informational and account-level unbundling (Directive 2009/72/EC; Article 27 and 31). If fully implemented and enforced like in Germany, these requirements are sufficient to guarantee that DSOs act neutrally and fulfill their tasks in a non-discriminatory manner. In Germany, the legislation has been adapted accordingly since 2005, respectively 2011, so every DSO has to fulfill the requirements on informational and account-level unbundling. Additionally there is no evidence, that customers connected to small distribution networks may not benefit to the same extent as those connected to larger systems since every DSO has to abide the common laws and regulations. If a DSO is not capable in doing so he will leave the market by merging with a bigger one. Large DSOs might be more capable in providing inhouse billing systems, whereas smaler ones do have to buy this services on the market. Nevertheless we can not neglect the possibility, that smaller DSOs (< 100.000 grid customers) might be more inefficient than bigger ones due to the fact that they lack resources and therefore the expertise to manage the grid in an efficient way.

<sup>1</sup> PC\_2014\_O\_01 (29.04.2014)

<sup>2</sup> Approx. 2.000 p. a.

<sup>3</sup> See topic

We agree, that DSOs do have metering data of their customers, but we disagree with ACER's statement, that DSOs have a competitive edge through the advanced detailed knowledge of their customers since DSOs have no benefit from this data. As a DSO we rather need the data to fulfil regulatory and legal duties in accordance with the common laws and regulations.

The schwaben netz gmbh welcomes ACER's statement, that the gas sector is dominated by uncertainties over the future<sup>4</sup>. Back in in the year 2011 the german regulator<sup>5</sup> fixed common interest rates for electricity as well as gas network operators and neglected the existence of higher uncertainties in the gas sector. Therefore we are hopeful that there might be a differentiated view on network operators in the future.

We do not see the logical coherence between stranded costs, a decline in gas demand and a negative spiral which will impact heavily on consumers and prices. Because of the mentioned higher uncertainties in the gas sector DSOs/TSOs have an angle on stable and affordable prices. They would otherwise ruin their business modell by loosing customers. This ist the main reason, why DSOs/TSOs do not have an incentive to realize inefficient costs and, as a result, charge inefficient high prices.

As a DSO with a stabele increase in customers, we welcome ACER's conclusion regarding the needs for more imports. On the national german level we already highlighted this point in several statements related to the „Gasnetzentwicklungsplan“. In the context of increasing demand in our grid area we see the needs for higher im- and export capacities on the TSO level, because of limited capacities in some german regions. We therefore support initiatives, which highlite the possibility of granting special contracts to larger consumers by providing load management services to the DSO. These contracts would be able to avoid costs for expanding the -from time to time- limited capacities in the gas network. Unfortunately we can not realize a progress of preperation for such contracts by the german legislator.

German grid operators are among the world leaders when it comes to security of supply and grid quality levels (SAIDI), which is a clear benefit to the customers and the economy in a whole. Nevertheless it should be questioned whether there is a real need for EU-wide guaranteed minimum standards along with compensation arrangements. Due to geographical (rural areas/cities), regulatory and RES (connection requests per day) differences it will be difficult to find a minimum standard, which takes into account the different national and regional singularities. We believe, that first of all the national regulators are the relevant institutions to define quality of service levels according to the national rules together with the energy industry and the consumer organizations. Additional best practice analysis between member states can help to identify good solutions in serving the customers.

ACER wishes to delegate responsibilities from the national level to EU agencies. In our oppinion there is no necessity to transfer regulatory tasks to central EU agencies such as ACER. Such action would strongly impede market developments since all EU agencies have to consider in their decisions the existing national legislation, competition levels and the characteristics of the national energy markets. ACER would have to build up a tremendous knowledge regarding all existing legal frameworks in the 28 member states. Furthermore the principle of subsidiarity is fundamental to the functioning of the European Union (EU). This principle includes that in all cases, the EU may only intervene if it is able to act more effectively than member states. It guarantees that action is taken at national/local level where it proves to be necessary. Some elements of the principle of subsidiarity can be found in DIRECTIVE 2009/72/EC, for instance in

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<sup>4</sup> PC\_2014\_O\_01 (29.04.2014), p. 7

<sup>5</sup> Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen (BNetzA)



Number 29: „To avoid imposing a disproportionate financial and administrative burden on small distribution system operators, Member States should be able, where necessary, to exempt the undertakings concerned from the legal distribution unbundling requirements.“

Germany has currently implemented a switching period of 10 working days to ensure that existing supply contracts are not breached. This step was considered important by the law makers, the regulator and the energy industry to ensure that a switching process does not leave the customer with legal confrontations with his existing and/or new supplier. Additionally ACER and the national NRAs have to consider, that shortening the switching period will mean higher costs for the DSOs due to the facts that an adequate IT structure has to be implemented and an appropriate quality level has to be guaranteed to secure the communication during the switching process. Since there is no evidence, that customers will gain an unlimited welfare surplus by changing their retailer every day the majority of the customers would have to pay for upgrading the IT infrastructure in the gas market to a level, which is not required by them. This would be a perfect example for implementing inefficient high cost, predefined by authorities. Therefore we do not share the opinion that the implementation of a 24 hour switching period should be fostered.

ACER notes that „households and industry can save energy and money by improving their energy efficiency, and potentially will increasingly be involved in demand response. Therefore, consumers should be encouraged and empowered to take full advantage of the new and emerging technologies that will allow them to respond.“<sup>6</sup> We do have concerns about the households ability to respond by taking advantage of the new and emerging technologies. There are two main factors that limit the households ability:

1. The household has to be able to analyse the benefit from responding and to weigh the odds of a new technology.
2. The household has to be able to finance the new technology.

These two factors limit the ability of responding and to take full advantage of the new technologies. Therefore the penetration of the market might not be as deep as expected in the long run.

In our opinion a single based output regulation would not lead to sustainable results at low economic cost, but it rather encourages the opposite (inefficiencies). We also do not see any added-value compared to the status quo in Germany or to be more specific to an input based regulation with selected output elements. The German DSOs are in the 2. period of incentive regulation. Besides input based parameters output based parameters are included in the efficiency benchmarking (served area, connection points, annual peak load). As a result the German regulatory framework has a -relative- fair balance between input and output parameters. We therefore do not see the necessity to change this system for a regulation that directly drives cost reductions without examining the reasons of these costs (examples: high service level, higher cost for maintenance in „old“ grids, structure of the DSO → city vs. rural area,...). The incentive based regulatory framework, as we can see it in Germany, implicitly takes into account the costs of a DSO/TSO by penalizing inefficient high costs: On the one hand problems, that might occur out of asymmetries in information (TSOs/DSOs vs. regulator) and the administrative burden get minimized. On the other hand in addition, the incentive based framework puts an incentive on the network operator to minimize his costs and gain an extra effort due to a higher efficiency level, which implicitly lowers the network charges in the future.

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<sup>6</sup> PC\_2014\_O\_01 (29.04.2014), p. 11

We highly welcome the statement, that consumers have to be protected and empowered so that they remain at the heart of the retail market. We also appreciate the intended clear definition of the relationships between DSOs, other service providers and consumers, since we are realizing in our everyday work that especially consumers (households) lack clear differentiation of the single market players.

The german NRA is examining the result of the first regulatory period at this moment in the light of the incentive based regulation. Although this process has not yet come to an end, one main result is, that further developments should be well balanced (evolutionary rather than a revolutionary process) and only be implemented if any added value is clearly identifiable.

Any substantial change of the regulatory system harbours the risk of destabilizing the market and making investors feel insecure. For the schwaben netz gmbh stable, long term tariff regulation is of utmost importance. Future investments will only take place if shareholders have trust in the return of their investment. This requires a stable regulatory framework. Fundamental changes, like the intended consolidation on DSO level (without any surplus for the customers) or the delegation of responsibilities from the national to a supranational level hinders investments and raises uncertainties about the future.

Kind regards

schwaben netz gmbh



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