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**European Energy Regulation “A Bridge to 2025”
Comments by Oesterreichs Energie (Register ID number: 80966174852-38)**

Dear Madam,
Dear Sir,

Oesterreichs Energie welcomes ACER’s forward looking approach in elaborating “the Bridge to 2025” document in consultation with the concerned stakeholders. The challenges Europe’s energy markets could face in the coming decade and the potential regulatory responses for the period 2014-2025, as summarized in the consultation paper, provide a solid basis for debate. Oesterreichs Energie represents more than 140 energy companies active in generation, trading, transmission, distribution and sales which in total cover more than 90 per cent of the Austrian electricity generation and the entire distribution.

Europe has set itself ambitious targets to adjust its energy sectors to current and future challenges: the necessary increases of market liquidity e.g. by larger bidding zones, increases in efficiency in the areas of energy generation and use, safeguarding security of supply and increasing the share of renewables in the energy mix to the expansion of transmission and distribution networks as well as the decarbonisation of our energy system. Above all these changes should come at the lowest cost possible for our economy and citizens.

In order to realize the anticipated goals there is a clear need for a long-term and integrated energy policy which integrates the respective expertise of all market players affected.

In the following we provide our point of view on the issues put forward in the consultation paper.

1. Electricity Wholesale Markets

In broad terms, Oesterreichs Energie can subscribe to the analysis of the state of play and agrees with most of the electricity wholesale market trends identified by ACER in the consultation paper.

The following proposals presented in the paper should be implemented in order to achieve more efficient electricity markets:

The implementation of the Target Model as a no-regrets option;

- Further development of liquid intraday and balancing markets;
- Continued focus on non-discriminatory market arrangements for generation and demand;
- Promotion of balancing responsibilities for all market participants (including RES);
- Optimisation and cross-regional coordination of the capacity calculation methodologies;
- Removal of regulated prices and bidding caps that limit price formation;
- Creation of common functions to coordinate capacity calculation and allocation;
- Challenges of changing markets and policy interventions to ensure generation adequacy.

We share the analysis of changing wholesale electricity markets due to ever-increasing shares of decentralized and often variable RES. The greater variations in electricity supply will indeed lead to a greater need for flexibility in the energy markets and systems.

The current energy market design provides insufficient incentive for the investments which will be necessary in the future (flexible capacities, storage plants, etc.) and the commercially viable operation of system-relevant flexible plants. The market situation of conventional power stations has been declining steadily in recent years. Even high-efficiency CHP plants and flexible new plants are experiencing major economic problems. Investments in new generation and storage plants are effectively on hold. The current economic crisis is intensifying the situation by reducing demand. The number of operating hours of high-efficiency CHP plants and peak load power stations in particular is continuing to decline. The market integration of renewables is a first important step in the direction of correcting the market distortions which currently exist (for further details see next chapter).

It needs to be ensured in the market design that security of supply is guaranteed at all times. This is dependent on the economic viability of conventional flexible generation plants (e.g. gas-fired power stations, high-efficiency CHP, etc.) and hydropower in the long term.

In addition and against the backdrop of the market situation described above, discussion is growing of the increasing need to modify the existing energy market design in order to enable generation plants to be operated economically efficiently and new plants built so as to safeguard security of supply.

We are of the opinion that, in addition to the energy-only markets, the future electricity market model also needs to appropriately reward the provision of reliable energy supplies. If a capacity remuneration mechanism is to be implemented in one Member State it should allow for the participation of capacity (demand and supply) from neighbouring countries.

We share ACER's opinion that a market development and integration is key for the integration of (variable) renewable energy. Renewable energies need to be brought closer to the electricity market and, in the midterm, integrated into the market. Given an appropriate environment this would involve the direct marketing of mature technologies, including the acceptance of the associated balancing risks. The recently endorsed Guidelines for Energy and Environmental State Aid 2014 -2020 provide a good framework in this area for member states to adjust their support schemes.

2. Infrastructure investment

With regard to infrastructure investments, ACER outlines in the Bridge to 2025 the need for a more pan-European approach. Europe has targeted this challenge by elaborating the Infrastructure Regulation, which includes the set up and support of Projects of Common Interest. Oesterreichs Energie welcomes this approach and also the inclusion of hydro pumped storage, in the Regulation itself, but does not agree with the exclusion of hydropower regarding financial support (level playing field with other storage facilities).

Considering the current challenges in supply of flexible capacity we urge ACER to support the removal of the following obstacles for the realization of the European potential of hydro pumped storage:

- Double grid fees and excessive taxation for hydro pumped storage, which is often treated both as a generator and as a final consumer;
- Distortion of the level playing field because of discriminatory support for other storage technologies;
- Trade-offs between environmental legislation and the low-carbon agenda;
- Delays in setting up the European Single Energy Market.

We appreciate the introduction in the document of the need of infrastructure investments at distribution level, and not only at transmission level.

We believe that investments in the distribution networks are essential. The needed infrastructure is a prerequisite for an efficient RES integration and market flexibility.

Sustainability, future orientation and long-run predictability are essential as the infrastructure business has a planning horizon of decades and the challenges are changing in line with the development of the energy policy of the European Commission to achieve the decarbonisation of the energy market. In the current regulatory framework, short regulatory periods constitute a standard practice, with a regulatory scheme that changes every 4-5 years. This prevents DSOs from taking long-run decisions „risk-free“ based on current regulatory schemes.

Future investments shall allow not only the investments incurred in the network, but also to allow the necessary reinvestments in the “conventional” components of the grids (transformers, cables).

These future investments shall allow also the necessary reinvestments or replacements in the connection of RES to the grid. RES generators, especially wind, were first connected in some regions at the beginning of the 2000s. Since then, DSOs have carried out massive investments in their grids to connect this renewable generation, where the necessary reinvestments in those grids are likely to start within the next decade.

3. Consumer concerns

Affordability issues are a major concern for many energy consumers and taken very seriously by our industry. With increases of taxes and other levies, energy bills have often risen in recent years while the energy cost component of the bill has decreased. Here it is up to member states and the European Commission to ensure that non-energy part of the bills, such as taxes, grid fees and other levies stabilizes.

A variety of services are provided by energy companies, which know their local situations very well and therefore are able to customise their offers. Our members are continuously developing new energy products and services with the aim to empower customers and actively integrate them in the energy markets (citizen solar parks, self-generation and consumption programmes and energy efficiency services).

We agree that certain consumers have concerns about data privacy and security, due to a higher automation and new technologies. These concerns have to be taken very seriously and be addressed in order to create a basis of trust on which active consumer engagement will take place.

Furthermore we speak out for market based concepts just as competitive markets and pronounce against an increase in regulation. In particular we hold the opinion that transparency, clarity and comprehensibility are major concerns for customers and should not be restrained by regulatory barriers.

4. DSO roles in a constant energy changing environment

As stated in the document, we agree the need for clear market rules and definition of roles and responsibilities of different market players (i.e. NRAs, DSOs, aggregators, suppliers, ESCOs, others ...), where conflicts of interest or overlapping tasks shall be avoided.

DSOs demand the following roles as essential for a future transparent, stable and efficient energy market:

- As included in the ACER document, DSOs are the neutral market facilitator that ensures the reliability and stability of the system while facilitating the commercial activities of other market actors.
- DSO should as well maintain its responsibility for metering in Austria as the meter is the logical end point of the DSOs electrical grid.
- DSOs must without restriction be allowed to use information from the Smart Meters in order to fulfil their regulated duties such as system stability and billing.
- Being a neutral regulated entity with no commercial interest in consumers' data, DSO is best positioned to be market facilitator (data hub), managing and storing grid data while providing third-parties non-discriminatory access to customer data. At the same time, it can ensure data privacy for the consumer, which is an essential safeguard for consumers and will enable consumer trust.
- Meter data should be provided to other market actors authorised by the customer. With this in place, existing unbundling requirements are sufficient to ensure for new market services to develop by new actors (aggregators, ESCOs, others) for customers. Then the principle stressed by the document "DSOs should not impede the development of the market in supply services ..." not be able to use advance access to data to gain commercial advantage" in page 26 is therefore guaranteed.
- DSOs priority access to relevant flexibility services is crucial to fulfil their core tasks as the party responsible for grid stability and secure grid operation. In all other situations market actors can act freely as long as the distribution grid is not put at risk.
- DSO is the central point of contact for customers in grid related issues and the link between DSOs and the customer should be maintained.
- In order to fulfil these emerging data responsibilities in a smart grid environment, DSOs need to be equipped with the adequate tools, to manage these increasing quantities and quality of data.
- In addition, DSOs will be confronted with additional tasks in order to ensure a smooth grid and market functioning mainly due to upcoming changed appliances such as charging stations for electric vehicles or ancillary services, etc.

5. DSOs tariffs structure and the need of an efficient development

Following principles are recommended for an efficient development of DSO tariffs in the future:

- Tariffs should promote peak demand management and aim to reduce infrastructure costs purely for peak demand. These tariffs should be cost reflective, easily understandable and transparent. Majority of the costs incurred by DSOs when connecting new demand or generation to their grids are based almost exclusive in the connected peak demand (power connection). Power based grid tariffs would encourage consumers to reduce their contracted demand. On the other hand these will be more cost reflective and, at the

same time, these will incentivise the shifting of energy use from peak times to hours with lower demand, encouraging the energy system efficiency.

- Tariff structure should encourage distributed generation, demand response, and efficient energy consumption [from the distribution system perspective].
- Tariff structure should enable sufficient and predictable revenues for DSOs investments now and also in the future.
- Tariffs should be technically feasible to implement, should promote well-functioning electricity markets and should not conflict with overall regulation and legislation.

Regulation must not prevent DSOs from developing better functioning and more cost-reflective tariff structures keeping the overall efficiency as the main guideline.

In the ACER document has been identified a need for more flexibility and more competition. We agree that flexibility has gained importance and will remain essential during the next decades. However, capacity shall not be forgotten. This issue is equally important and it seems that it has been left aside of the energy equation.

One major objective of regulation is to improve economic efficiency. It is essential to define a clear and stable policy framework with non-conflicting objectives. Some of the regulatory tools cannot solve incoherence resulting from conflicting political objectives. Governance still has many structural issues to deal with, like the RES support schemes or capacity schemes.

In the ACER document a need for more flexibility and more competition has been identified. We agree that flexibility has gained importance and will remain essential during the next decades based on the increased amount of RES being connected to DSOs networks. However, on the other hand, capacity of a system has been left aside of the energy equation.

Capacity and flexibility adequacy are both necessary to deliver, through market mechanisms, the level of security of supply to allow a stable and well-functioning market. Flexibility is needed to match shifts in both supply and demand and overall capacity is needed to meet peak demand with enough low risk.

Each generation plant or demand-response installation has a maximum generation capacity and an expected performance at peak load. Sufficient capacity is needed for a system to control the risk of supply-demand imbalance within minimum security standard. However, unlike flexibility, total capacity is usually used only a few hours each year, even though it contributes to lowering the risk every day.

Therefore, this security of supply provided through adequate flexibility and capacity should be economically valued by energy markets. Actually, markets do not provide signals to attract investments in new capacity and encourage existing capacity to leave the market. In fact, there is currently a lack of purely market based investments, either in conventional or in RES plants.

Uncertainties and needs for both capacity and flexibility may differ from one country to another but each Member State is facing or may face both issues in the future. Therefore

regulatory policies makers shall developed regulatory frameworks and scheme in order to promote economically efficient decisions.

6. Network Codes

We support certain harmonisation at regional or national level; however we believe that a European wide harmonisation is desirable but not realistically reachable midterm. We agree with the proposal to set minimum standards at European level on certain issues although there are also issues which may differ in some regions such as connections, disconnections and maintenance or in the area of format and exchange of customer metring data (section 3.30).

We think that each Member State should be allowed to choose which market model suits its market best, taking into account local circumstances but only within a clear defined level playing field. Any system change due to standardisation introduces additional costs in the system that have to be analysed beforehand through cost-benefits analysis („one-size-doesn´t-fit-all“). Only after a Cost Benefit Analysis (CBA) positive results, change will be viable and recommended.

We want to stress that the right involvement of all relevant market parties such as DSOs, Traders, Suppliers, Generators in the drafting process of Networks Codes is crucial. It would be necessary a major involvement of stakeholders in the pre-comitology and comitology stages for the adoption of NCs by making updated versions of the codes available to all stakeholders as well as by explaining the amendments introduced. This will provide increased transparency into the process.

Some of the Network Codes can significantly affect the operation of Distribution System Operators and has also significant influence to all other relevant market parties when implementing certain provisions, based on the fact that most of new RES generation is being connected to their grids, causing in some cases important rise in costs. Therefore we would like to point out the importance of carrying out the Cost Benefit Analysis regarding the fulfilment of new requirements that a Network Code might introduce on DSO level. These CBA should be submitted to public consultation, justifying the needs when modifying existing operational rules. No CBAs have been made for those requirements of NCs that are currently in comitology procedure, even though the economic effects can be substantial as our associations have expressed on several occasions.

We would like to underline that requirements between different NCs need to be consistent: coordination among the drafting teams of the respective codes needs to be assured in order to avoid them to interfere with each other and at the same time to be consistent with EU energy policy.

Finally we would like to highlight that Network Codes should be limited to set minimum common standards on DSO level in order to prevent situations that could have a negative impact exclusively on the overall European system operation and security of supply. It has to

be defined how deep Network Codes should go into detailed technical provisions. The principle “one-size-fits-all” is not suitable; technical conditions and operation vary a lot among power grids and its users in Europe, as expressed by our association over the years.

In definitive, ACER could play a key role in a smart deployment of these above requirements stated in the network codes.

Thank you for taking our comments into consideration. If you have any further questions, please do not hesitate to contact us.

Yours sincerely,

Dr. Barbara Schmidt
Secretary General



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