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ACER Agency for the Cooperation of Energy
Regulators
Herrn Alberto Pototschnig
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SLOWENIEN

ACER Consultation „Energy Regulation: A Bridge to 2025“

Dear Mr. Pototschnig,

In response to your consultation on the papers “Energy Regulation: A Bridge to 2025” BDEW herewith would like to present its main statements on the issues at stake.

BDEW very much appreciates that ACER invites stakeholders to participate in the debate on the adequate European regulatory framework for the next years. Today the energy sector in Europe witnesses fundamental changes which require a well-balanced set of policy instruments in order to achieve a continued secure, sustainable and affordable supply with electricity and gas for Europe's customers and industries. BDEW welcomes that ACER opens the debate on the key challenges for the Energy sector and the orientation of regulatory policy for the period up to 2025.

3rd Package implementation and EU wide policy coordination are key

However, the implementation of the Third Internal Energy Market Package must remain the top priority of all relevant stakeholders. Against this background, BDEW considers the following components as essential for a full completion of the internal energy market:

- free competition in the energy market,
- no regulated prices in wholesale and retail markets,
- a single stable and long-term framework for the reduction of CO₂ emissions,
- an integration of RES into the market,
- an appropriate infrastructure,
- well-defined marked roles, and
- the guarantee of security of supply at supranational level.

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In the draft papers under the umbrella document “Energy Regulation: A bridge to 2025”, ACER identifies important developments in the European energy sector. BDEW widely agrees with ACER’s analysis and assumptions on the challenges to markets and networks. BDEW welcomes that ACER underlines the necessity for a consistent legal and regulatory framework and stronger EU wide coordination of national energy policies. At the same time, ACER states that the many “unknown unknowns” in the development of energy markets require a certain degree of flexibility for policy makers. This is undoubted; yet, a reliable regulatory framework is key for all market participants. The challenge will be to find a good balance on the basis of careful consideration.

BDEW welcomes that ACER chooses a comprehensive, cross-sectoral approach to analyse present and future challenges to Europe’s energy sector. In that respect it is very positive that the gas market has appropriately captured ACER’s attention. Having the complexity of the energy systems and their various interdependencies in mind, an integrated energy policy is indispensable. Specific policy decisions cannot be regarded in an isolated way.

Stakeholder involvement is of major importance

Consequently, the policy recommendations for future European energy policy shall be based on a well-founded analysis and a thorough discussion with all affected stakeholder groups. Therefore, BDEW proposes that the current pre-consultation should be seen as a first step of stakeholder inclusion, followed by a thorough elaboration of the intended “green paper” in 2014. To this effect, BDEW is willing to contribute to the upcoming debates on the future European regulatory policy.

BDEW highly welcomes that ACER is clearly and unambiguously committed to the functioning of markets. Stranded investments induced by uncoordinated policies have to be avoided. The market impact of the way sustainability goals are set has to be assessed thoroughly.

ACER’s analysis mirrors quite well the current debate on Energy policy in Germany. Over the last two years, BDEW elaborated first cornerstones of a concept for an enhanced energy market design. Please find attached the BDEW position paper “The pathway to new market structures for the suc-

cess of the energy transition (Energiewende), Options for government action" dated 18 September 2013, together with two sub-documents presenting the design of a decentralised capacity market as well as proposals for a reform of the German Renewable Energy Sources Act, respectively.

Well-balanced DSO regulation and definition of market roles

Concerning networks regulation and the future role of network operators, a comprehensive roadmap describing "Realistic Steps for the Implementation of Smart Grids in Germany" has been developed (see attached file). The concept is also placed in the discussions on European level initiated by the European Commission's "Smart Grids Task Force" and the respective working groups. BDEW is convinced that the alignment between the debates in these circles and the planned ACER and CEER papers as well as the participation of stakeholders are key prerequisites for a sound European energy policy.

In this context, BDEW is concerned that the papers posed for pre-consultation may anticipate certain policy orientations which shall rather be the result of profound discussion. For example, in the last chapter of the discussion paper on Consumers and Distribution Networks, ACER presents questions concerning the future regulation of distribution networks. Even if ACER does not give explicit answers, the choice of questions leaves the impression that part of the debate on unbundling requirements may be pre-influenced by the idea of strengthening these requirements. Also with regard to these questions, BDEW is convinced that a thorough analysis of today's regulatory systems and their performances is needed and stakeholder involvement is urgently needed.

Likewise, a profound stakeholder involvement will be needed to find a well-reasoned differentiation between the responsibilities of network operators and services provided by market players. With the rise of intermittent RES production, the old principle of generation following demand is fundamentally challenged, and the provision of flexibility will become one core issue in tomorrow's energy markets. BDEW welcomes that ACER puts the customers into the centre of the discussion since new market roles on the demand side have to be defined. Starting from the above mentioned roadmap for smart grids, BDEW continuously works on these questions and is willing to give input for the debate on a European level.

Enhancing the Gas Target Model

With regard to the gas paper BDEW agrees with the need to revisit the Gas Target Model and determine whether its recommendations need to be revised. Especially now that a number of network codes and rules have been or will soon be adopted, it will be useful to assess the progress and to underline in the model the importance of their correct and coherent implementation in the spirit of the European energy market objectives.

An important consideration must be the integration with the electricity market; there is need for a holistic approach to energy market issues, with full consideration of the benefits gas can offer to a sustainable and secure European energy supply. Besides, the retail market has to be included in the Gas Target Model considerations to ensure that customers will benefit from the new and evolving market dynamics.

BDEW, however, would like to emphasize that the Gas Target Model should stay grounded in an appreciation of current developments and what needs to be done to improve the situation. Enforcement of existing legislation and network codes is the priority. Especially at this difficult time for the gas market, the Gas Target Model should aim to deliver a framework that will give confidence to investors in the gas sector and be robust enough to accommodate the demands of a fast-moving energy world. The further development of the Gas Target Model shall be based on a sound analysis of today's experience and a broad consensus among stakeholders.

Enhancing Europe's energy regulation policy in 2014

Summing up, BDEW very much welcomes the enhancement of European energy policy in order to react to today's and tomorrow's challenges. The quick development in energy markets requires a refit of the regulatory framework. Yet, any action in this field should be well-considered and based on a broad consensus.

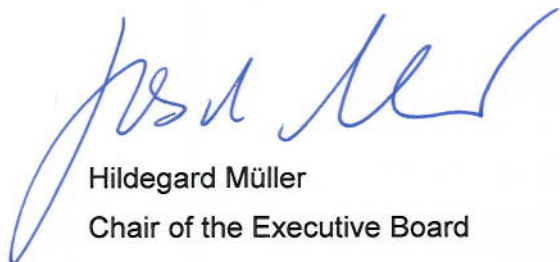
As pointed out at the beginning, the enforcement of the measures from the Third Internal Energy Market Package must remain the top priority. In this context, BDEW would like to state that the development in the energy market in Germany is already recognisable. In both gas and electricity sector, end customers can choose among hundreds of suppliers. Con-

cerning the gas market there is increasing confidence in the liquidity of the market at most hubs, and recognition of the progress towards functioning wholesale markets. Liquidity in the gas market will further improve by fostering cross border trade and by the development of an efficient secondary market. Likewise, the pan-European electricity market will further develop with the entry into force of the network codes developed under the Third Internal Energy Market Package.

BDEW is looking forward to taking part in the debates on the green paper announced for early 2014 and would welcome ACER and CEER to take into consideration the above presented arguments when advancing the preparatory papers.

If you have any questions on our positions and on the attached documents, please do not hesitate to contact us.

Kind regards,



Hildegard Müller
Chair of the Executive Board



Dr. Michael Wunnerlich
Member of the Management Board
Director of the Representation to the
European Union

Enclosures:

- BDEW, "The pathway to new market structures for the success of the energy transition (Energiewende), Options for government action", 18 September 2013
- BDEW, Position Paper "Design of a decentralised capacity market", 18 September 2013
- BDEW, Position Paper "Proposals for a fundamental reform of the German Renewable Energy Sources Act", 18 September 2013
- BDEW, Roadmap "Realistic Steps for the Implementation of Smart Grids in Germany", 11 February 2013