

Agency for the Cooperation of Energy Regulators (ACER)

Email to: consultation2013E05@acer.europa.eu

17 December 2013

Energy Regulation: A bridge to 2025

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

We strongly support ACER's initiative to identify the key challenges and potential regulatory solutions from 2014 when the EU network codes are largely in place until 2025. We welcome the opportunity to respond and have summarised our key messages below:

- ACER and UK's energy 'trilemma' are not fully aligned. The UK focuses on affordability, security of supply and sustainability whereas ACER's trilemma is establishing effective competition, security of supply and sustainability. We fully support the development of the internal energy market which should facilitate further trade and ensure that the costs of new mechanisms and rules are borne by those that benefit or create additional cost. However, in line with the Lisbon Treaty, Member States should be free to adopt policies and energy mixes which (a) are at least cost to their consumers; and (b) best suit their national circumstances. Furthermore, since differing circumstances have led to differing energy mixes and industrial structures, it is our view that a wholly unified energy policy across Europe is not feasible.
- We consider that national based support mechanisms can be designed and implemented in a way that does not create distortions and significantly hinder market functioning. These mechanisms may be necessary, as is the case, for example, with UK's Electricity Market Reform (EMR) programme, which is necessary to meet the objectives of security of supply, diversity of generation and decarbonisation in the UK. Each Member State has different market mechanisms; we would welcome clarification from ACER as to which of these it has taken into account. Differing energy mixes will create legitimate regional cost differentials. The focus should remain on creating an effective market that facilitates cross border trading and this must include an effective mechanism for pricing the use of transmission and interconnection assets so that the costs of these assets are paid for by those who benefit from their use.
- We do not believe that there is any evidence of gas market failure within GB and therefore some of the regulatory measures detailed in ACER's pre-consultation paper may be unnecessary in GB.

edfenergy.com

EDF Energy plc.
Registered in England and Wales.
Registered No. 2366852.
Registered office: 40 Grosvenor Place,
Victoria, London SW1X 7EN

- Improved co-ordination between the gas and electricity markets should not be driven by TSOs without a clearly defined scope in place which sets out a TSO's roles and responsibilities.
- We welcome CEER's initiative to review the future role of DSOs and look forward to reviewing its consultation in 2014.

Our responses to some of the questions are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Mark Cox on 01452 658415, or me.

I confirm that this letter and its attachment may be published on ACER's website.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Angela Pearce".

Angela Pearce
Corporate Policy and Regulation Director

Attachment

Energy Regulation: A bridge to 2025 - The overarching paper

EDF Energy's response to your questions

Q1. Do you agree with this overall approach? Would your emphasis be any different?

EDF Energy supports ACER's aspiration to identify the key challenges and potential regulatory tools to respond to the changing EU energy market. Every effort should be made to complete the internal energy market and ensure that Member State policies are aligned with broader European policy objectives.

In its pre-consultation paper, ACER confirms that coordinated energy policy broadly rests with national governments, parliaments and the European Commission. We would like to understand how ACER envisages its contribution.

Q3. Question 3: Do you think the list of suggested measures is complete or do you have further suggestions?

Do you think that the requirements for infrastructure investment in gas are the same as in electricity?

What further ideas do you have on the future role of consumers?

We would welcome clarity on the terminology and definitions used by ACER. For example, how does ACER define adequate network infrastructures? There are a number of terms used throughout the papers that are open to interpretation; we believe that in order to assist understanding across the industry, these should be very clearly defined.

Energy Regulation: A bridge to 2025 - Electricity

QE1. Although adequacy issues are not likely to disappear completely, do you agree that the current primary focus on levels of adequacy will likely be expanded to emphasise a later priority focus on flexibility?

We recognise the importance of generation adequacy in some Member States.

QE3. What are the market-based routes for flexible 'tools' to participate?

National and European energy policies have driven a rapid growth in (non-programmable) renewable generation such as wind and photovoltaic. Setting energy policy targets for specific technologies has been the key driver. Specific targets for particular technologies should not be set; the removal of these types of drivers will incentivise the energy market to find an optimal mix of generation and flexible solutions.

Although the route to market for national flexibility tools is clear in most energy markets, it should be recognised that there could be a wide range of market participants who could benefit from accessing these tools. We therefore believe that consideration should be given as to the route for local flexibility tools, and what structure works best for TSOs,

DSOs, suppliers and generators in order to attain the optimal mix of generation and flexible solutions. The market structure should also ensure that no parties are adversely impacted by the actions of others that they have no control over. We believe that this is an important principle when considering how flexibility is incorporated into the market.

QE4. What measures may be required to ensure that the market receives the most appropriate signal for the value of flexibility?

As previously noted there are likely to be numerous participants who would have a value of flexibility including generation, suppliers, demand, TSOs and DSOs. These products may not be coincidental or aligned amongst market participants who will place different values on this flexibility. Any market should therefore ensure that all participants are able to identify the value that they place on flexibility.

We also consider that the market arrangements should ensure that the actions of any participants do not have a detrimental impact on the position of another participant that they are unable to control. For example, if a TSO accepts an aggregator's bid or offer for flexibility, then it would not appear appropriate to penalise suppliers or generators through cashout and imbalance as a result of these actions.

QE5. Do you think that other, for example institutional arrangements should be considered? Is greater TSO and DSO coordination required? If so, what should NRAs do to facilitate this?

The development and growth of the DSO is likely to have significant implications for the TSO. It is therefore likely that greater co-ordination will be required. This should help to improve the functions that each is fulfilling. As previously noted, Member States have different markets at different levels of development, and with different drivers. Therefore, it appears unlikely that a single model for DSO to TSO co-ordination would be appropriate. The Demand Connection Code expects this co-ordination to take place at the day-ahead stage with information sharing; however, it could also be possible that this co-ordination is market based or real time.

QE6. How should regulators facilitate demand side participation (including demand side response and electricity storage)?

We do not believe that the objective should be to ensure demand side participation, rather that the market arrangements support the participation of demand side response so that it can compete equally with generation. This will help to ensure that the costs to consumers are minimised. At the same time we recognise that the traditional markets for flexibility and services have been developed with a focus on generation and TSO requirements. As such the NRAs should:

1. Identify the providers and purchasers for demand side actions in their market – this could include TSOs, DSOs, suppliers and generators.
2. Identify the model for demand side actions that they would like to follow – this will provide confidence and certainty to the demand side response participants as to how the market will operate.
3. Ensure that the rules of participation are applicable to demand side actions as well as generation – historically barriers have included demonstration of delivery for demand side actions, period of delivery and length of notification. Resolution of these issues will help ensure demand side providers can participate in the market.

4. Have a time-limited period of developing and proving demand side actions – it should be recognised that this is an evolving and developing market. Therefore there may be a need to ensure arrangements are in place in the early period to develop the market and providers. However, the ultimate aim should be to move to a market where demand and generation compete equally.

QE7. How can NRAs support, or incentivise TSOs and DSOs to invest in ‘smart networks’. What actions are needed, in particular from regulators, to promote more active distribution networks? Do we sufficiently reward avoiding ‘dumb’ investments?

It is very important to have clarity on the TSO’s role and responsibilities. This would provide assurance that the TSO could not undertake anything that would be to the detriment of the market participants.

It should be recognised that the industry is moving towards smart networks; however, the industry is still at an early stage of development in this area. Therefore it is important that the market and support of NRAs evolves along with smart grids. At the moment the industry appears to be at the early stage of development and innovation where technologies are being tested and trialled to identify what works. This requires support from the NRAs to ensure that sufficient funds are available whilst ensuring the cost pressures on customers are minimised. Once the networks move to deployment of technology and arrangements then the NRAs should focus on ensuring that the investments deliver a benefit to consumers by ensuring they are efficient and reducing costs in the long term.

Energy Regulation: A bridge to 2025 - Gas

- QG1. Do stakeholders agree with our view of the gas specific strategic context and in particular with our views on:**
- * Declining demand for gas, and in which sectors such decline is seen;
 - * Increasing role of imported gas and uncertainty surrounding unconventional gas supplies in Europe; and
 - * Increasing role for a flexible gas supply to support growth of renewable electricity generation.

ACER should help set the framework that encourages an economic and efficient gas market and not leave it to TSOs to co-ordinate this. As ACER has highlighted, there is huge uncertainty as to what the EU gas market will look like by 2025, and consequently ACER should not introduce a regulatory framework that is too restrictive. The framework needs to be able to adapt to the changing and uncertain gas market.

- QG2. Are concerns about competition in gas markets and concerns that liquidity at most hubs is insufficient to achieve functioning wholesale markets sufficient to warrant some form of intervention?**

Whilst liquidity may be considered to be an issue across the EU, we do not believe that is the case within the GB gas market. ACER should consider the full impact of new regulations particularly if they adversely affect an existing well-functioning market within a Member State.

QG7. What are your views on the future investment climate for new gas infrastructure in Europe? What are the major challenges ahead?

It may be appropriate for ACER to encourage infrastructure investment across EU to facilitate access to future supply routes when EU indigenous sources have been depleted.

QG12. Does a lack of coordination between intra-day gas and electricity markets expose gas-fired generators to significant imbalance risks?

We do not believe that ACER has demonstrated that there is a lack of co-ordination between intra-day gas and electricity markets.

Energy Regulation: A bridge to 2025 – Consumers and Distribution Networks

QC1. Do you think that further European level measures should be taken to enhance the operation of retail markets to the benefit of consumers?

This may be appropriate, but we disagree with the statement to 'put smaller consumers first', we believe that treating all consumers equally is appropriate whilst recognising the limited resources that small consumers may have.

QC3. What are the main questions that you consider the proposed CEER review should address with regard to the future role of DSOs and also to ensure that the regulation of distribution networks remains fit for purpose in 2025?

If a future role of a DSO is to use consumers for demand side response, it will have an impact on generators, the TSO and other market participants; therefore, its role needs to be clearly defined and communicated.

CEER should look to consider what a smart grid looks like and what tools are available to a DSO to help manage their network. This could range from facilitating further demand side response, through the deployment of smart grids and technologies to utilise the existing infrastructure more efficiently.

This should then help to inform how the market arrangements are developed to realise this opportunity, and what options are available to recognise the needs and demands for different member states. Ultimately, by identifying the goal and vision for DSOs, CEER should be able to identify the path that NRAs will need to follow to help realise this to ensure it interacts effectively and efficiently with the TSO and generation and supply markets.

**EDF Energy
December 2013**