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**Review of the ITC annual cross-border infrastructure compensation sum
ElCom response to public consultation PC_2012_E_15**

Dear Sir or Madam,

On 16 October 2012 you invited us to provide comments on Consnetec's study "Assessment of the annual cross-border infrastructure compensation sum". As Swiss national regulatory authority we are pleased to hereby provide our comments.

Due to the central location of Switzerland and the highly meshed network structure we are directly affected by transits and are willing to contribute to a safe and reliable European network operation with our network infrastructure.

According to the Article 16 of the Swiss Power Supply Act, transits of electric energy shall fully cover the corresponding costs and it is not allowed to charge domestic end customer with transit costs. Based on the regulated costs and tariffs of our TSO swissgrid, this is not the case today considering the actual level of the annual cross-border infrastructure compensation sum, as stated in paragraph 5.4 of Commission Regulation (EU) No 838/2010. We therefore welcome the efforts of the Agency to reassess the sum, based on paragraph 5.3 of mentioned Regulation.

In the following we will comment on the specific questions raised by ACER in the consultation process.



Question 1: Has Consentec's study considered a sufficient range of potentially suitable options for assessing the ITC infrastructure fund? What other options do you believe should be included in the assessment?

On the one hand EICom welcomes the idea of Consentec to use a simple and consistent cost allocation method. On the other hand a too simple methodology will not reflect the fair cost allocation principle. EICom does not understand why Consentec did not show other cost allocation methods such as With-and-Without Transits (WWT), Average Participation (AP) or Marginal Participation (MP). Regarding the sensitivity analysis we miss the comparison of the "thin" and "thick" interpretation of LRAIC.

Question 2: Are the criteria adopted to assess these options and their application to the identified options appropriate? What additional or alternative criteria do you think should be applied?

EICom does not agree with the proposed high level principles proposed by Consentec. In our opinion the share of the total infrastructure considered in the ITC fund should not be defined on a global basis (see Question 4) and we do not agree that the current ITC infrastructure fund size is a consistent interpretation of Regulation 714/2009. The objective of the ITC mechanism is cost recovery. Neither the size of the ITC fund before Regulation 838/2010 nor the presented calculations indicate that the share of the network affected by cross-border flows has a value of only 100 Mio.€.

To assess the ITC fund EICom recommends the following principles:

- ITC fund should cover the full cost of the cross-border flows as stipulated by Regulation 714/2009.
- LRAIC should not over- or underestimate the costs of cross-border flows.
- Cost allocation method should replicate the impact of cross border flows.

Question 3: Of the options identified by Consentec, do you have any preferences? If so, please provide reasons for your preferences.

The main principle for EICom to assess the three approaches presented by Consentec is the ITC objective of cost recovery. Therefore we prefer the absolute approach. Regarding the restricted absolute approach EICom has strong concerns in the definition of the reference year while the incremental approach does not fulfill the criteria of cost recovery.

Question 4: Are the assumptions adopted for the illustrative numerical analysis appropriate? Considering the practical limitations of availability, what other data or assumption do you believe should be used in such analysis?

EICom welcomes the approach to use an already accepted methodology for cost allocation. In the same time the cost allocation key should allow for a fair cost allocation of costs incurred. The proposed global key does not reflect country differences and therefore allows not for a fair cost allocation because the GTS assumes that the share of the network affected by cross-border flows is the same for all countries. This is obviously not the case. Furthermore EICom does not agree with the "thin" definition of LRAIC. In our opinion "joint and common costs" should be included in the LRAIC. Consentec includes the main drivers in their sensitivity analysis. Unfortunately Consentec uses only one cost allocation key (GTS). It would be interesting how sensitive the compensation sum reacts if other allocation keys (AP, MP, WWT) are applied.



Question 5: How do you believe the different parts of the congestion revenues should be treated in calculating the ITC infrastructure fund?

EICom agrees with the analysis of Consentec regarding the treatment of congestion revenues calculating the ITC infrastructure fund (narrow interpretation).

However in our opinion the approach in applying the narrow interpretation in the numerical assessment of Consentec is not clear. Therefore EICom suggest that Consentec should further show:

- how the infrastructure fund would be affected if operating costs, calculated with a mark-up on the total asset value, are calculated before and after the respective adjustments of the asset base for congestion revenues and
- how the infrastructure fund would be affected if the adjustment for congestions revenues takes place after the cost allocation key has been applied.

Question 6: Do you agree with Consentec's assessment and the preliminary conclusions on the options for determining the ITC infrastructure fund?

We do not follow the preliminary conclusion of Consentec. Firstly we do not agree with the conclusion that the considerable differences between the three approaches decreases over time. Comparing for example the difference between the incremental and absolute approach in 2011 and 2022 shows that this difference is not decreasing over time. In our opinion the differences between the three approaches do not cancel out over time and the choice for one approach is crucial. Secondly EICom has strong concerns that the incremental approach is in line with Regulation 714/2009 which postulates cost recovery. The other results of the study give strong evidence that 100 Mio. € are not appropriate. In this line EICom does not share the concerns that an abrupt increase of the ITC fund could be interpreted as a violation of Regulation 714/2009. Finally EICom has strong concerns with the assumption about the reference year in the restricted absolute approach. The choice of a reference year is arbitrarily. As shown in the sensitivity analysis the compensation sum is extremely sensible to the choice of the reference year. Therefore the definition of the reference year is a crucial problem.

Question 7: What are your views regarding the suitability of using LRAIC to determine the ITC infrastructure fund? Do you consider the LRAIC proposed by Consentec appropriate?

In our opinion to determine the suitability of LRAIC it has to be assessed against the defined high-level principles and ideally against other methods. EICom encourages Consentec to a systematic assessment of the three approaches against their high-level principles.

In addition EICom does not agree with the LRAIC proposed by Consentec regarding the treatment of "joint and common costs". Regulations 714/2009 and 838/2010 define as an objective of the ITC framework fund cost recovery. Therefore we recommend to include operational (incl. maintenance and overhead) and capital costs of the total physical infrastructure provided. EICom recommends therefore the "thick" interpretation of LRAIC, including "joint and common costs".



Question 8: Are there any other issues that you believe should be taken into account in this review? In particular, how do you believe the on-going wider developments in the European energy market and regulatory arrangements should impact the Agency's proposal on the infrastructure fund?

In our opinion a double compensation for projects of common interest (PCI) by the ITC mechanism should be avoided.

Kind regards

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