



Publishing date: 22/09/2014

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ACER Agency for the Cooperation of Energy Regulators

Herrn Alberto Potoschnig

Director

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**ACER Consultation “European Energy Regulation: A Bridge to 2025”**

Dear Mr. Potoschnig,

with reference to your consultation paper “European Energy Regulation: A Bridge to 2015” we take the chance of making remarks on the role of DSO and the issue of unbundling. Überlandwerke Erding GmbH&Co KG is a DSO in the vertically integrated local municipal utility holding Stadtwerke Erding GmbH. We have about 30 employees and are located in the south of Germany, in the growing region of the Munich airport. About 46.000 electricity customers are connected to our grid.

The de-minimis rule, which allows member states in all Europe to decide not to apply certain unbundling rules to network operators serving less than 100,000 connected customers, is of vital importance for our company. This threshold has proven to be an instrument which allows smaller companies like ours to operate their network efficiently, since the additional benefit for competition – if there is any – would definitely not justify the effort and cost.

Therefore, we strongly object to any consideration to revise the current de-minimis rule, especially since we cannot see any need to question it. Regarding sensitive information, identical rules apply to TSOs and DSOs. There is no exception for a small undertaking like ours. Therefore, the statement in the consultation paper (page 27) that many DSOs are at present exempted from unbundling does not correctly reflect the current legislative framework.

Besides, all electricity and gas undertakings are obliged to keep separate accounts for their transmission and distribution activities (“unbundling of accounts”, Article 31 of the Electricity and Gas Directives, respectively).

If fully implemented and enforced – as it is the case in Germany today – these requirements guarantee that DSOs as us act absolutely neutrally and non-discriminatorily.

From our point of view, consumers in Germany can easily switch suppliers thanks to standardized market processes and data formats. Moreover, they can choose among a large number of suppliers and tariffs thanks to the successful opening of the electricity and gas market. The number of suppliers, offering tariffs on the open market is growing very fast. With great effort, we give any customer full access to the open market. As a local company, we do this at most times even faster than unbundled great companies.

Furthermore, we were surprised by ACER’s statement in the context of unbundling that customers, connected to small distribution networks, may not benefit to the same extent as

those connected to larger systems. We cannot follow this very general statement, in particular as there is no explanation given. In fact, market rules and obligations on grid use and connection to the grid are the same regardless of the network operator's size. Neither are there exemptions on the basis of the de minimis-rule based on Art. 27. For that reason, we do not see any relation between the size of a DSO and the fact whether it is connected to a TSO or not on one hand and the opportunities of the DSOs customers to benefit as active grid users from different options on the energy market on the other.

Since a high degree of compulsory automation of workflow processes, like supplier switching and data handling, effectively and efficiently provides for non-discrimination and a functioning market, any further regulatory intervention that leads to the restructuring of businesses would not only be costly and inefficient, but inappropriate.

In conclusion we argue that, before any further measures are envisaged, the full implementation and the stringent enforcement of the existing unbundling rules in combination with effective data exchange processes and data protection rules should be the first step to ensure a safe and reliable level playing field.

All the best

Walter Huber

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