

IFIEC Position Paper on ERGEG ERI – CEE “Report on Transparency”

Introduction

1. IFIEC represents the interests of industrial energy users in Europe for whom energy is a significant component of production costs. Energy prices are a key factor for the competitiveness of these enterprises. Despite the opening of the European electricity market in the wake of the first EU-directive in 1996, experience has shown that there is no effective competition between multiple generators within the national markets, which are in fact still separated from each other. Wholesale prices remain high and are increasing even faster than before, especially since the beginning of 2005 when the EU emissions trading scheme was introduced.
2. Confidence in the wholesale market is undermined by a lack of transparency, which in turn leads to lower liquidity. As the EU Commission states in its sector inquiry, more than 80% of the market participants feel that important information is not available. Almost more worrying than the lack of available information is the problem of informational asymmetries. These create disadvantages for new suppliers and for small actors and also for (industrial) customers, since vertically integrated firms have an easier and quicker access to information that is known to their affiliates. E.g. the trading arm of an integrated firm may know earlier about an unplanned breakdown of the power plant of its generation sister than the rest of the market. This gives him an informational advantage.
3. Such information asymmetry and lack of transparency is supporting existing positions of market power and leading to high prices that are judged as unfair since they are the result of discriminatory information policies. Increasing transparency and creating a level playing-field in terms of information is thus an important means to alleviate market power and bring about effective competition in wholesale markets.
4. In this respect IFIEC acknowledges the measures foreseen by the EU Commission in its “3rd package”, which contains obligations for supply undertakings to keep at disposal, and provide relevant data to national regulators or the Commission on hourly dispatching decisions per plant and their bidding behaviour at power exchanges, interconnection auctions, reserve markets and OTC markets (Art. 5 Regulation 1228/2003). However, such data must not only be known to the regulators ex post, furthermore, also market parties need to have access to such information – confidentiality issues notwithstanding – to create a level playing field with regard to market information.

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5. IFIEC therefore broadly supports the work of the regulators of the CEE-region laid down in their transparency report, as well as similar efforts by regulators of the CWE-region, which provide a good basis for data transparency.

General remarks on the information disclosure process

6. The sector inquiry revealed that lack of transparency and asymmetric information is an area of great concern among market participants. Information is key for acting successfully in the electricity market. Thus, market players need to have access to all relevant information. More important is equal access to information, since positions of market dominance can be strengthened by privileged access to information. Taking into account vertical integration between generation, trading and retail, an informational advantage for integrated firms becomes evident. Despite unbundling provisions of the existing and planned EU-directives (which mostly affect unbundling of grids) it can be presumed that the trading branch of a vertically integrated firm has easier access to essential information than an independent trader / retailer. This is particularly important for information about maintenance of plants or unplanned loss of generation capacity. This kind of asymmetric information creates an informational advantage for integrated firms since they can act on such information before the information is made known to other market participants thus having an impact on wholesale prices.
7. The current lack of transparency and asymmetric information is clearly hampering the competition process, deterring new entry and thus leading to high and increasing prices. Increasing market transparency therefore is a tool that can help improve the functioning of the market, even if other measures should also be pursued. To improve transparency, the following principles are important:
 - Create binding rules for information disclosure. A mere self-regulation via non-binding guidelines is not enough.
 - Harmonization of publication requirements is necessary. Therefore a minimum level of information disclosure should be laid down, with the possibility for single member states to go further. Nevertheless, these minimum standards may not be minimalistic but must comprise the necessary data.
 - Data should be published in a uniform format and in a common language additional to the national language.
 - Publication should be internet-based, so that data can be accessed easily.
 - Data should be made available to all market participants at the same time, as close to real-time as possible, in a non-discriminatory way.
 - As long as data are known to only one or a group of market participants, these players should be prohibited to act on this info unless it is made available to all other market part.
 - Data should be available on a central platform instead of being distributed over different homepages of several actors.
 - Data made available should be audited to check whether they are reliable.

Specific comments on the CEE–report on transparency

8. In the following we will comment on the data specifications laid out in the CEE-consultation paper “Report on Transparency”. Where no comment is made, IFIEC agrees with the regulator’s views.
9. In general, the report states that the transparency requirements laid down are based on the CM guidelines (annex to regulation 1228/2003). While implementation of these is a first step, further transparency requirements may be needed, including a clear-cut definition of insider trading and rules prohibiting the latter. This may be a subject to be addressed within the “3rd package”.
10. Overall, the regulators judge each single item listed in their report as being “obligatory” according to the CM guidelines (except for data on wholesale markets). This seems to be too wide an interpretation of the guidelines for some items. The legal obligation for these data should therefore underpinned more clearly.

Load (4.1)

11. Load data (actual and forecast) should be made available per market time unit. Market time unit should refer to the smallest unit used in any member state in the region (e.g. ¼ h should be the time interval used for publication also in countries where market time unit is ½ h or one hour) – this should also apply for other data (e.g. aggregated generation).
12. Load data should not only be published per bidding area but also per voltage level (thus publication not only by TSOs but also by DSOs)

Transmission and Interconnectors (4.2)

13. On information 4.2.13: Not only the congestion income should be published but also the usage of these revenues by the TSOs (in accordance with Art. 6 of regulation 1228/2003)

Generation (4.3)

14. On information 4.3.4: Individual data of large consumption units should not be made public in a disaggregated way.
 - a) If one keeps in mind the fact that transparency is essentially needed because the market for electricity is subject to a structure characterized by market power, it becomes clear that this problem is located purely at the supply side.
 - b) A main difference is also that the supply side of electricity is not competing globally while some large consumers do. If these consumers have to publish data publicly this could give rise to an information asymmetry in the global context and hence a competitive disadvantage. For example the electricity consumption of large consumer electrolyses allows for the calculation of the final production of this unit and thus creates distortions in the market for this final product.
 - c) Therefore, aggregated and anonymous information on consumption is sufficient and fulfils the requirements of point 5.7 of the CM guidelines.

15. On information 4.3.7: Intermittent generation in some countries has already a significant market share and thus plays an important role in price formation. Reliable information on forecasted generation of this type therefore is very important for market players. The publication of such data is possible, since the CEE-report itself refers to the “forecast that TSOs themselves use”, so this kind of data is available. A publication on d-1 is necessary, with a regular update as soon as a more accurate forecast is available (4 hours before real-time).
16. On information 4.3.9: See remark on 4.3.4.

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