

CONCLUSIONS

Thirteenth Meeting of the European Electricity Regulatory Forum Florence, 7-8 September 2006

1. The thirteenth meeting of the European Electricity Regulatory Forum took place in Florence on 7-8 September 2006, with the participation of representatives of the Commission, the European Parliament, Regulators, Member States and all interested parties.
2. Representatives of the regulatory authorities of acceding and negotiating countries also participated in the meeting of the Forum, with a view to assisting these countries in preparing for full participation in the internal electricity market. In addition, representatives from Switzerland and Norway were also present.
3. The Finnish Presidency of the Council, in its introduction, underlined the need for work to continue in further development of the internal market. They emphasized the need to confront any lack of confidence in the electricity market and to move ahead rapidly during the Finnish and German Presidency to develop innovative solutions to any remaining problems.
4. The Commission noted that, in 2006 there had been considerable activity in consolidating the rules for the internal electricity market. It drew attention to the infringement procedures launched by the Commission and the publication of the Green Paper on Energy Policy which included a number of themes related to the internal market. ERGEG underlined the important role that European institutions will need to play in the future and its own willingness to contribute for the development of the regulated framework into 2007 and beyond.

Congestion Management Guidelines

5. The Commission updated Forum participants on the process for approval of new congestion management guidelines. These will be adopted by the Commission before the end of the year and the requirements therein must be applied directly, unless otherwise stated. The Commission noted the mandatory nature of the guidelines and the responsibility of regulatory authorities, under Article 9 of Regulation 1228/03 to ensure that the guidelines were applied fully. Regulators will report on compliance to the Commission and Florence Forum on a regular basis. The Commission stated its intention to keep the guidelines under review and to update them, when necessary and with the advice of ERGEG, through regular meetings of the Comitology Committee whose role will be more prominent during 2007.
6. The Commission also noted that it had sent, in April 2006, infringement letters to all Member States where issues remained relating to priority allocation of cross-border network capacity in favour of pre-liberalisation contracts. This followed an examination of the implications of the judgement of the Court of Justice on case number C17/03. The Commission explained it was currently examining the responses from Member States on the infringement letters and assessing whether

any cases needed to be taken to the next stage. For several Member States, priority access has already been removed.

7. Forum participants welcomed the legal certainty that the guidelines would bring and strongly urged regulatory authorities to ensure full compliance. The Forum acknowledged the important role of ERGEG in preparing the guidelines and conducting the consultation process. The requirements for a co-ordinated approach to congestion management were particularly underlined, as were the transparency and information sharing obligations that must be applied by TSOs and market participants. Forum participants underlined the need to address issues such as firmness of capacity, the incentives to maximise the available capacity and the optimal use of congestion revenues as well as the governance arrangements for organisations responsible for the allocation of capacity. The Forum encouraged regulators, in implementing the guidelines, to ensure TSOs have adequate incentives to develop and operate cross border capacity to its maximal potential. IFIEEC, CEFIC and GEODE called for increased use of re-dispatching as a congestion management tool.
8. In relation to further developments of guidelines to cover intraday and balancing market integration, it was noted that the new congestion guidelines already require cross border intraday capacity to be made available by 1 January 2008. In addition, ERGEG presented the initial results of its consultation on possible further improvements to the arrangements for integration of cross border balancing markets. The Forum supported further examination of these areas noting that efficient balancing arrangements are the key to a properly functioning wholesale market. ERGEG agreed that, once it had fully examined consultation responses, it would consider proposing a further amendment to the congestion management guidelines in order to improve the functioning of cross border intraday and balancing markets. Forum participants stressed the need for consistency in the development of market rules and that each stage of the capacity allocation process needs to be addressed progressively before additional features are added. In this context, the need to make progress in integration of intraday markets, where applicable, in relation to, and as a precursor to, balancing market integration was noted. In addition, as capacity allocation approaches real time, the interface with secure network management requires careful handling.

Transparency and disclosure of information

9. ERGEG presented the results of its consultation process on Guidelines for Good Practice on Information Management and Transparency. It was concluded that a substantial increase in the degree of transparency across a large range of system operation and market data is indispensable for well functioning electricity markets including:
 - information sharing between TSOs;
 - provision of information from generators to TSOs;
 - provision of information from generators to other market participants;
 - provision of information from TSOs to market participants (e.g. on congestion, load and balancing).

10. ETSO summarised the work it had carried out on the request of the 12th Forum including the list of the data TSOs need to ensure an optimal use of the existing infrastructure. ETSO stated that it largely agreed with the ERGEG guidelines although at present it saw some legal obstacles. It added that, in the context of the congestion management guidelines, that the degree of information sharing between TSOs would be enhanced. In particular ETSO noted that it was launching a transparency platform "Grid View", which could serve as a conduit for the full range of information.
11. EURELECTRIC introduced its work in compiling a list of information that it considers market agents need to have in order to trade efficiently, which was also made at the request of the 12th Forum. Eurelectric presented the considerable range of initiatives it had already taken in the context of regional markets to increase the level of transparency with regard to information on production at regional level. These were welcomed by the Forum. Eurelectric stated its approval for many aspects of the ERGEG guidelines while highlighting some areas where it suggested further discussion was required.
12. Forum participants underlined their commitment to the development of clear rules on transparency and information management along the lines of the ERGEG Guidelines for Good Practice. It was thought particularly important that sufficient disaggregated ex-post information on production was made available and that this could be done relatively quickly and at minimal cost. A high level of transparency was considered vital to encourage investment by new market entrants by reducing the level of risk. ERGEG also stated its intention to pursue the transparency agenda through the regional initiatives as well as to provide formal advice to the Commission on whether its guidelines should be formally adopted as a legally binding text. It was agreed once ERGEG had finalised such advice to the Commission relating to the nature of the guidelines (at the latest by the middle of October), that the Commission and ERGEG would invite transmission system operators, Eurelectric, Europex and EFET to a working group at which rapid progress will be made to implement them as far as possible immediately on a voluntary basis. The majority of Forum participants stated their support for such a development. GEODE requested to participate in the working group.

Follow up to Green Paper on Energy Policy

13. The Commission set out its intentions relating to the Green Paper and, specifically, developments relating to the internal market for electricity and gas. In its view, the main issues considered to be the most important, and meriting consideration for further action, were: a) the role and powers of regulators at national and European level; b) the current organisation and modus operandi of transmission and distribution system operators at national and EU level; c) dealing with questions related to market dominance; and d) issues relating to transparency.
14. The Commission noted that it was, at present, considering possible options for future measures including a wide range of approaches. It would set these out in its report at the beginning of 2007 as part of the EU Strategic Energy Review.

15. Claude Turmes, Member of the European Parliament and former draftsman of the Directive 2003/54 for the internal market for electricity welcomed progress on congestion management guidelines and rules on transparency and disclosure of information. He highlighted, however, ongoing distortions arising from allocation of emission certificates and non harmonised rules on decommissioning funds as well as market dominance. These problems need to be tackled urgently if the market model is not to fail. He also argued that the Commission, governments and regulators should consult more regularly with members of both national and EU Parliaments.
16. Forum participants gave some preliminary feed back on the subjects raised by the Commission. The main points for examination were considered to be as follows:
 - political commitment by Member States is vital to the process of introducing competition with a recognition that further action is needed to ensure the removal of all distortions and to realise important investments including those on the priority interconnection plan;
 - the need for a similar level of real competition in both the electricity and the natural gas sector;
 - the importance of unambiguous and effective unbundling of transmission system operators and the need to develop further co-operation between TSOs across a wide range of issues, fully supported by the national and European regulatory and financial framework;
 - a high level of consistency of energy regulation by the European Union and across Member States, the removal of all regulatory gaps and cross border enforcement of common rules as far as possible through the strengthening and further development of existing structures and initiatives, with new bodies only to be considered where these are demonstrated to deliver real benefits.
17. As well as these points, the energy-intensive industries (IFIEC, CEFIC) and GEODE stressed the need for access to energy at competitive prices on a long term basis. They pointed out the requirement of effective unbundling of the TSO from generation and distribution and that this should imply the gradual reduction of numbers of TSO leading to market integration with the objective of a single wholesale price. They also argued for homogeneous balancing power regimes, within Member States, involving both the supply and the demand side. The energy-intensive sectors also pointed out that urgent correction is needed in EU policy concerning EU ETS mechanism which is impacting excessively on power prices.

Update on Regional Initiatives

18. ERGEG presented a summary of experience with the Regional Initiatives during 2006. It noted the expected actions during the remainder of 2006 and for next year. The major priority item is to ensure full compliance with the forthcoming congestion management guidelines. In the view of ERGEG, further development of

intraday and balancing markets is also necessary as well as advancing transparency issues.

19. Participants acknowledged and welcomed the progress made in most regional initiatives. The Forum expressed strong support for this exercise as a unique opportunity to make rapid progress to well functioning regional markets. However, market participants noted that the rate of progress had been variable and called for concrete actions to secure improvement in those cases. A clear co-ordinated timetable for action across all regional markets, and covering all issues, was considered necessary. A fully consistent approach to congestion management solutions in all regions in order to enable their convergence towards single integrated internal energy market was also highlighted as well as harmonisation of governance and operational aspects. The strong involvement of the European Commission was also emphasised, as was active consultation and feedback to stakeholders in order to assure rapid adoption of agreed principles.
20. ERGEG noted its intention to continue with this work during 2007 and undertook to accelerate the rate of progress in dealing with the main priorities in full co-operation with transmission system operators and market participants, with the emphasis on practical solutions to the main outstanding issues. The need for a strong political commitment at both national and European level was also strongly underlined and that this required additional liaison with political institutions.

Sectoral Inquiry

21. The Commission (DG Competition) presented the state of play of the inquiry into the energy sector, which is based on the Commission's competitions powers. The final report of the inquiry is now being prepared based on the preliminary report published in February 2006, and will probably be published in early 2007. In parallel to the inquiry and separate from it, a number of investigations - including in some cases unannounced inspections - have been launched in the energy sector.

Network operational standards

22. UCTE presented the progress achieved in 2006 in developing the Operational Handbook as well as a new trial Compliance Monitoring and Enforcement Program (CMEP) to be run on a regular basis from 2007, separated from the standard-setting procedure. Since 2006, these two instruments are also embedded in a legal framework (MLA) ensuring inter-TSO enforceability. UCTE called regulators to further support this action especially when extending enforceability to all grid users. The Commission noted that operational standards need to be developed in all European systems and be consistent with the Regulation. The possibility for the Commission to adopt guidelines on security and reliability was also noted.
23. Due to a discrepancy between wind generation development and yet unsolved consequences on transmission systems, TSOs launched a European Wind Integration Study that will deliver proposals for a generic and harmonized European approach to wind energy; the study will look into operational aspects including grid connection codes, market organizational models and procedures,

regulatory and/or market-related requirements as well as common public interest issues.

24. The Forum congratulated UCTE on its simultaneous action on major system development cases (IPS/UPS, Ukraine, Turkey) in line with the objectives set out in the Green Paper related to external relations. The Forum acknowledged the importance of the role of UCTE as reliability watchdog also in the context of system developments. UCTE recalled that beyond this UCTE role consistent actions need to be taken by stakeholders towards the assessment of compatibility and reciprocity in markets and environment conditions, prior to any decision on project implementation.