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### **EUROPEAN COMMISSION CONSULTATION GUIDELINES ON FUNDAMENTAL ELECTRICITY DATA TRANSPARENCY**

#### **EDISON – WHO WE ARE**

Edison is one of Italy's leading player in the energy field. Its origins date back to 1883, when Edison has always been active in the energy industry, making a strong contribution to the development of Italy's industrial structure.

Today, the Group has about 3,900 employees in more than 10 Countries across Europe, Africa and the Middle East, with activities in the procurement, production and sales of electric power and natural gas. Currently, Edison has more than 1,000,000 customers in Italy's deregulated consumer market, just two years after entering this business. Currently, Edison is Italy's second largest electric utility, with 41.8 TWh produced in 2010, equal to 14.6% of the entire national production.

Between 2002 and 2007, Edison completed one of the most ambitious generating capacity expansion programs ever carried out in Europe, building new efficient and environmentally compatible power plants fired with natural gas with an aggregate capacity of about 7,000 MW. Today, the Group generating capacity has reached 12,475 megawatts (MW).

#### **GENERAL REMARKS**

EDISON welcomes the opportunity to further comment on Electricity Data Transparency following the ERGEG consultation on its Electricity Transparency Guidelines. Data transparency will be of paramount importance for providing operators with sufficient clarity in fulfilling EU obligations on



transparency and integrity. A clear and harmonised binding set of rules on transparency and disclosure should therefore be pursued by the Commission together with a precise identification of those types of data related to power generation, transmission assets and power demand throughout an open and transparent process.

Market integration will progress in a dynamic manner and it is therefore crucial to provide sufficient market confidence and incentives for the necessary investments to be carried out and for sound asset backed trading business models to be developed with trading entities.

Price formation mechanisms should be open and accessible to market players to make effective commercial decisions in electricity wholesale markets. For this reason the transparency guidelines and their detailed requirements should provide a sufficient degree of information and ensure at the same time that legitimate hedging and optimization can take place. For this to happen, the maximum degree of legal certainty should be provided for the fulfilment of new transparency and integrity requirements, especially under the soon to be adopted REMIT and upcoming MAR Regulation.

## **QUESTIONNAIRE**

**Q1: Do you have any major problems or policy issues related to transparency which go beyond ERGEG's advice and which you think should be addressed in the Commission's proposal?**

We do believe that the current Guidelines duly address the aim of fostering transparency on the electricity markets. The adoption process of the Guidelines via comitology should guarantee the necessary legal certainty and clarity for market operators to comply with the EU transparency obligations. The harmonised criteria should therefore be exhaustive and consistent with existing EU legislation and requirements. As a consequence their application by market participants should also be considered exhaustive as regards obligations under EU market and antitrust legislation and towards national and EU competent authorities.

**Q2: Do you consider that definitions are complete and clear enough to avoid any potential problems when applied?**

Detailed definitions contribute to granting legal certainty to the transparency provisions. In our view some definitions, such as the way consumptions units are taken into account, should be addressed in a more straightforward manner and in close cooperation with ENTSOe, in order to reduce the room



for interpretation and regulatory arbitrage. Some other aspects as well (such as generation unit / type, forecast margin, reservoirs filling rates, total load, etc.) still lack a univocal definition.

Unless more precise definitions are provided, information providers should not be held liable if such information proves later to be incorrect, provided they have duly updated this information and unless it is demonstrated that the incorrect information was disclosed on purpose. For the same reasons ex-ante requirements shall be provided on a reasonable endeavour basis.

**Q3. Points 4.1.3.7 and 4.1.3.8 require publishing ex ante information on planned and ex post information on the unplanned availability of consumption units including the name, etc. Do you consider publishing this information would be likely to create any competition concerns?**

Only information on unavailability of consumption units that can have impact on market outcomes should be released (thus only consumption units > 100MW). Disclosure requirements should be addressed by taking into account specific market characteristics and structures. For this reason the name and location of consumption unit may be of small relevance but bidding areas on the other hand should be known to market participants. The information related to the planned and unplanned unavailability of consumption units should be disclosed by the TSO, once the information has been delivered by the consumer, on an aggregated form or at least on an anonymous manner. The maximum level of harmonisation should be provided in this respect to guarantee level playing field across Europe.

**Q4. Points 4.3.2.4 and 4.3.2.5 require publishing of ex ante information on planned and ex post information on unplanned availability of generation units including the name of the generation units etc. Do you consider that publishing this information on a unit by unit basis would likely to create any competition concerns?**

Publishing of ex-ante information on planned unavailability of generation units is important to improve the level of transparency in wholesale markets without posing competition concerns.

As far as unplanned outages are concerned, transparency requirements on generation units should be set in a compatible way with legitimate hedging asset backed strategies. Although a unit by unit publication of unplanned outages can provide useful information on price dynamics, we believe that it should be further investigated the possibility to limit the publication to the aggregated amount of unavailable capacity by fuel type in each bidding area. This data item may be sufficient, in our view, to grant an adequate information to the market without exposing operators on the market. The disclosure



timing to the TSO will be paramount in this regard. Information about the duration and cause of unplanned outages should be provided on a “best effort” basis: duration and cause of the outage, in fact, frequently remains unclear for some time after the event.

Consequently companies should not be held liable if such information proves later to be incorrect, provided they have updated it as soon as new reliable intelligence was available. In order to grant legal certainty to these provisions a precise definition of “immediately” should be provided with a precise maximum time lag for disclosing information. Moreover, such definition should be fully consistent with REMIT provisions on insider trading prohibition (where legitimate hedging is allowed under specific circumstances).

**Q5. Points 4.3.2.8 requires publishing of actual unit by unit generation updated every hour. Do you consider that hourly publishing this information on a unit by unit basis raises any competition concerns?**

Competition concerns are primarily related to market structures and functioning. Market barriers (including obstacles and physical constraints) should be taken into account together with transparency issues when addressing the scope of this obligation. In addition, the implementation of the exhaustive fundamental data transparency and reporting requirements will enable an easier supervision through a consistent market surveillance framework under REMIT of the National Regulation Authorities (NRAs) and ACER in coordination with the national competition authorities in order to prevent potential market abuse or anti-competitive behavior.

**Q6. Do you see any other issues arising from ERGEG’s proposal which may in your view give rise to competition concerns?**

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