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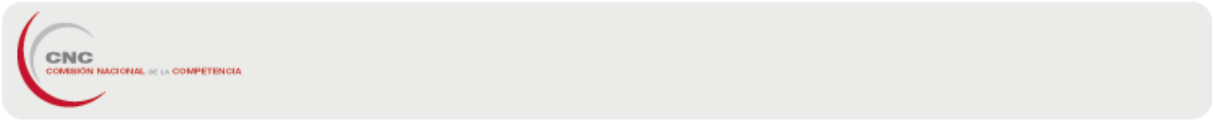

Question 4: Points 4.3.2.4 and 4.3.2.5 of ERGEG's guideline require publishing ex-ante information on planned and ex-post information on the unplanned unavailability of generation units including the name of the generation units, location, bidding area, available capacity during the event, installed capacity, etc. Do you consider that publishing this information on a unit-by-unit base would be likely to create any competition concerns? If yes, how does this concern relate to the potential benefit this information yields to market participants? Could this concern be remedied in a way which would nevertheless enable market participants to properly assess such an important change in a supply fundamental (e.g. by publishing data in aggregated form, for instance per production type and balancing zone)?

Publishing ex-ante information on planned and ex-post information on the unplanned unavailability of generation units might create certain competition concerns in the Spanish electricity market, especially in the market for resolution of technical constraints. In the technical restraints markets, limitations in the transmission or distribution networks that may lead to an unfeasible resulting program of the pool are solved by the TSO. The geographical scope of this market is local as defined by the TSO according to transmission infrastructure (there are 16 markets within peninsular Spain). It is our understanding that these local markets cannot be considered "bidding areas" as defined by ERGEG, as there is only one pool price in the Spanish electricity market and the cost of generating under technical restraints is shared by all consumers.

Several unilateral anticompetitive practices have been investigated in the technical restraints market by the Spanish Competition Authority in the past and there are still some ongoing investigations on this issue. Planned and unplanned unavailability can create or aggravate technical restrictions in certain areas. If there are very few generators in these areas, access to this information might facilitate unilateral anticompetitive practices for example in the form of excessive prices (this is a pay as bid market in Spain). In Spain this data is currently published in a disaggregated format but with a 3 month lag. Publishing this data in an aggregated format would solve these concerns.

Question 5: Point 4.3.2.8 of ERGEG's guideline requires publishing actual unit-by-unit generation updated every hour. Do you consider that hourly publishing this information on a unit-by-unit base would be likely to create any competition concerns (e.g. by increased possibilities to monitor the behaviour of competitors, to enter into collusive strategies)? If yes, how does this concern relate to the potential benefit this information yields to market participants? How in your view could the concern be remedied (e.g. by publishing data in aggregated form, for instance per production type and balancing zone and/or by publishing with a longer delay than one hour)?

Such disclosure would clearly increase transparency in the electricity market. However, in markets of an oligopolistic nature with a small number of producers, such as the Spanish electricity market, the drawbacks of such an increase in transparency may outweigh its benefits, by facilitating collusion and certain unilateral practices.

Accordingly, under current Spanish regulation, this type of information is published initially in an aggregated form while unit by unit generation (and offers) are published only with a three month lag. From a competition standpoint, the Spanish Competition Authority believes this to be an adequate compromise between the benefits consumers reap from access to this information and the increased risk of coordinated and unilateral anticompetitive behavior from electricity generators.