

Position Paper

on Guidelines on Fundamental Electricity Data Transparency

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General remarks:

BDEW welcomes the opportunity to comment on the EU Commissions consultation regarding the Guidelines on fundamental electricity data transparency.

BDEW is convinced that transparency on fundamental data is crucial, to promote a level playing field by reducing information asymmetry and ensuring an efficient functioning of wholesale market. The disclosure of fundamental data is one of the cornerstones of an energy-specific, tailor-made regime to ensure transparency and market integrity for energy markets. At the same time, transparency should be limited to fundamental data and not go beyond what is necessary to ensure that all market players are in a position to effectively compete on the wholesale markets. Functioning competition requires both a level playing field and the competitive market activity taking place on this level playing field. Whilst a level playing field can only be achieved if fundamental data are transparent, a competitive market activity necessarily requires strategic business decisions to remain secret amongst market players. For example, full transparency on commercial decisions taken (or to be taken) by the different players (e.g. concrete price offers for plants, price expectations) would reduce competition on the wholesale markets and go beyond what is needed for a level playing field.

BDEW believes that reliability of a price formation can further enhance as a consequence of an improved framework in fundamental transparency. Consumers and generators will benefit from better understanding of the functioning of the electricity market. In addition fundamental transparency will play a crucial role in promoting demand elasticity to price signals and fostering investments in demand side management and smart systems, to control energy demand, which is important when looking at the dramatic growth of intermittent energies.

On a regional basis, harmonised publication standards have already been achieved today (for example Scandinavia, Austria/Germany). The German approach to increase fundamental data transparency is based on compulsive agreements together with voluntary arrangements. With the start of the transparency platform at the European Energy Exchange (EEX) on www.transparency.eex.com, the transparency requirements according to Regulation (EC) No. 1228/2003 and the Congestion Management Guidelines have been successfully implemented; which has also been confirmed by the German energy regulator BNetzA.

BDEW is convinced that the goal of a harmonized transparency regime for fundamental data in Europe should be achieved through the continued use of the existing regional platforms; key is a harmonised publication of data that is defined and identical across the EU.

Potentially differing views between DG Competition and DG Energy on possible anti-competitive behaviour must not lead to legal uncertainty among data providing parties. Before any obligation on data publication is accepted by DG Energy, an agreement on data publication should be stroked by DG Energy with DG Competition. There must be clear rules, which data must be published. These rules must be identical for all market participants above the defined thresholds across Europe.

Question 1:

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?

Yes, it should be stated that fundamental data disclosure should primarily build on existing transparency platforms, where they are existing. The implementation of harmonized fundamental transparency obligations is essential for the development of fostering an integrated European energy markets. BDEW is convinced that existing regional platforms, which are already well functioning should be a key basis to establish market transparency most efficiently. An additional central access to these platforms that can be run by ENTSO-E (Entso-Vista) would be helpful. It should also be considered that several institutions across Europe have significantly contributed to market transparency in the past and are today perceived as frontrunners. Those activities and investments would be immediately devaluated or even neglected.

The Commission should seek to minimize the administration burden put on the market participants as a result of the transparency requirements to the extent possible. In particular the Commission should seek to avoid any duplication of notification requirements, predominantly in terms of parallel notification of data to more than one – European or national – administrative body. In order to achieve this objective a harmonisation or even integration in any kind of European-wide concept of transparency or notification schemes may be required.

Question 2:

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

No. BDEW believes that the definitions provided by ERGEG in the final advice are quite general. In order to ensure a proper application of the rules, BDEW believes that a thorough and detailed work on definitions – as initiated by ENTSO-E – will be crucial to develop clear and complete definitions without scope for misunderstanding.

For instance, this is the case for the definition on consumption and generation units: ENTSO-E should detail what are the conditions to define a single generation unit and under which conditions several generation units can be aggregated to form a production unit. Another example is that it is stated that data should be provided on a unit-by-unit basis by the primary owners of the data, but it is not clearly stated that the information on unavailability shall be published on a unit-by-unit basis as well.

Speaking from experience, BDEW considers that the definitions outlined in the current version of the draft are generally not detailed enough. Some definitions may require particular attention. Inter alia, clarification should be included as to what distinguishes a planned from an unplanned 'unavailability' (4.3.2.4, 4.3.2.5 of ERGEG's guideline), e.g. by stating that any unavailability which becomes visible, or is decided upon, less than one hour in advance of its

actual occurrence shall be referred to as unplanned whereas any other unavailability shall be treated as planned. Furthermore, it should be made clear whether unavailabilities to be notified by the power generator also include any acts of redispatch requested by a responsible transport or distribution operator.

Data definitions are crucial for the quality of transparency as well as providing certainty for the entity obliged to publish fundamental data; they need to be identical across the EU. Setting up a transparency platform such as the EEX-platform shows that the implementation of such a platform can only be successful with a maximum involvement of data providers particularly in the development of definitions. This is also a key reason that it receives a very positive response from energy sector participants (i.e. high degree of participation as well as high demand of the public for the data) and we think it is an important benchmark in the EU context.

Additionally, it is important to develop a reporting manual explaining the exact reporting procedure in addition to the necessary detailed data item definitions. Therefore, we again urge the European Commission to rely on the experience of existing transparency platform operators.

The decision on future changes of the definitions must be made in a transparent and open manner and should be preceded by a public consultation involving all relevant stakeholders. Once agreed upon, the new definitions should be communicated to the relevant stakeholders at least six months in advance to ensure a smooth and technically stable adaptation of the transparency platforms.

Thus, we urge for a transparent and open process on producing definitions as well as procedures; the current informal process of ENTSO-E is not efficient and should be formally opened up as it is not the key task of TSOs to define which data is beneficial for the market. In any case it must be clear that the objective is always increased transparency benefiting the market (and not purposed of system security etc).

Question 3:

Points 4.1.3.7 and 4.1.3.8 of ERGEG's guideline require publishing ex-ante information on planned and ex-post information on the unplanned unavailability of consumption units including the name of the consumption 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 (e.g. because of the commercially sensitive nature of information on energy consumption of individual companies)? If yes, for which industries, in which Member States, etc.? How does this concern relate to the potential benefit this information yields to participants of traded electricity markets? Could this concern be remedied in a way which would nevertheless enable market participants to properly assess such an important change in a demand fundamental (e.g. by publishing data in aggregated form)?

BDEW believes that the requirement on data publication must be equal in all EU Member States, and fundamental data should cover the supply side (e.g. generation data) as well as demand side (e.g. consumption data) plus grid data.

BDEW believes that, it is important to establish the principle that generation and consumption are treated the same. The market has the same interest in knowing the availability of a 100 MW generation unit as well as 100 MW consumption unit, because any unexpected outage will have a similar degree of influence on the market.

BDEW is sure that the positive effects of a unit-by-unit publication would outweigh any competition concerns. However, also aggregated information gives market participants the necessary key information on the market and price formation. BDEW does not see that the information of a single unit's unavailability is of key interest for the market and price formation, but the aggregated amount of unavailable capacity by fuel type in each bidding area. According to the experience in Austria and Germany on the EEX transparency platform, it is fully sufficient to publish aggregated figures per bidding area. It is therefore important that such aggregated figure is provided by the information platform, equally to all players. An adequate reporting threshold (currently 100 MW) should be established.

BDEW is not aware of competition issues publishing ex-ante information on planned and ex-post information on the unplanned unavailability of consumption units; we are not sure if publication of the name, location etc is vital.

In any case, we ask for legal certainty on this issue. However, BDEW has no view on the possible competition concerns in other industries.

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)?

No, BDEW believes that generally publishing unavailabilities on a unit-by-unit basis would have more positive than negative impact on competition. One of the main findings of the Commission's Energy Sector Inquiry has been the lack of availability of information on fundamentals to market participants on an equal basis. The initiative on fundamental transparency is aimed to close the gaps identified and to increase trust in market mechanisms. Again, the experience in Austria and Germany shows, it is fully sufficient to publish aggregated figures per bidding area. It is therefore important that such aggregated figure is provided by the

information platform, equally to all players. In order to ensure a competent authority a unit-by-unit access to the data, plants should report unit-by-unit data, however publication of data should be in aggregated figures. This model applies also to several paragraphs in 4.3. of ERGEG's guideline. In this case data security is one of the key points. Furthermore it must be ensured that provided data is used for transparency issues only, and not for other purposes (i.e. system security).

Generally, we are not aware of competition issues publishing ex-ante information on planned and ex-post information on the unplanned unavailability of generation units; we are not sure if publication of the name, location etc is vital.

Again, BDEW is convinced that generators and consumers should publish the required data under identical conditions, as both, demand and supply changes may influence the price formation on wholesale energy markets. Thus BDEW believes that the requirement on data publication must be equal in all EU member states, and fundamental data should cover the supply side (e.g. generation data) as well as demand side (e.g. consumption data) plus grid data.

In any case, we ask again for legal certainty on this issue.

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)?

No. We cannot see how hourly publishing of information can be used for any "collusive" behaviour between companies. ERGEG correctly points out that the output measured by frequency monitors is already available for many power plants to those market participants who subscribe to a service provider. A legal obligation would make sure that output data are available for all power plants to all market participants.

BDEW does believe that an aggregated publication of generation output by fuel type could have a positive effect on transparency without though reducing strategic uncertainty about possible market behaviour of other market participants. Aggregated information allows sufficient information on price formation and avoids information asymmetry as smaller market participants can hardly compile the huge volume of hourly unit by unit data.

Question 6:

Do you see any other issues arising from ERGEG' proposal which may in your view give rise to competition concerns?

No. Again it is important for all participants that are required to provide data, to have legal certainty on the specific requirements they have to comply with.

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