

RESPONSE OF RWE TO THE PUBLIC CONSULTATION ON ENHANCED DATA TRANSPARENCY ON ELECTRICITY MARKET FUNDAMENTALS

General Issues

RWE fully supports the approach taken by ERGEG in the Draft Guideline on Fundamental Data Transparency. We are convinced that these binding rules will improve considerably the functioning of Europe's electricity markets. We support the rapid adoption by the Commission of legally binding guidelines in this area under Article 18 of Regulation 714/2009.

It is our conviction that all market participants and end-consumers greatly benefit from transparency. RWE has supported numerous transparency initiatives over the years. In particular, RWE has published generation data beyond the legal requirements on a voluntary basis for some time.

Transparency positively affects electricity wholesale markets. To compete effectively in the wholesale market, all participants – traders, generators and retailers – need to be able to predict the likely evolution of supply and demand fundamentals and the situation on the transmission network. Participants base these predictions on analysis of expected levels of future demand, transmission capacity and generation capacity, but also by detailed analysis of actual events in the past and their observed impact on prices. The release of demand, transmission and generation data – both before and after the date of delivery - is therefore crucial to market participants' ability to analyse likely market developments and to participate in spot and forward electricity markets.

At the same time, transparency should be limited to fundamental data. Information on commercial transactions should be treated as confidential. For transaction data, post-trade transparency in the form of submissions to regulators on an aggregated, anonymous basis is sufficient.

Finally, it is important that transparency rules should be interpreted in the same way in all the Member States. It is essential that rules are not interpreted and applied differently in different Member States, especially for companies active in several markets. In order to achieve this, the competent authorities should liaise with each other and consult the market where necessary.

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?

Network transparency

More information on the network status is necessary in addition to generation and consumption data as follows.

- A transparent and comprehensible description of the calculations of cross border and internal congestions by the TSO:
 - "base case scenario",
 - information about critical network branches,
 - the calculation method,
 - detailed results for any declaration of congestions (bottlenecks).
- To support the growing intraday markets, daily publication of underlying scenarios and TSO congestion calculations would help market participants to understand factors influencing capacity. TSO's forecast of bottlenecks within the grid should support this.
- A detailed description of where congestion has occurred and what kind of grid asset is responsible for congestion (TSO-area, DSO-connections, DSO-transformer stations etc.).
- Identification of key internal congestion boundaries and the security level within those zones or nodes (e.g. surplus of 2000MW at base case scenario in winter peak) as well as the minimum generation capacity needed to ensure local grid stability.
- Information on individual re-dispatch measures (real-time), including volumes, location and cost.
- Transparent procedures and rules about the calculation, procurement and dispatch of TSO reserves.
- Even more important to the market is transparency of the resulting level of security of system resulting from reserve procurement and dispatch. It should be clear to every market participant what is the position within each internal zone e.g.
 - "in less than 10h of the year there might be an undersupply of in maximum 5% of needed network reserves for the relevant balancing zone",
 - "in less than 1h of the year there might be an critical undersupply of more than 30% of needed network reserves for the relevant balancing zone".

- European TSOs should be obliged to publish actual and standardised security of system parameters.
- Existing, requested and accepted grid connection capacity for each connection point.

Renewable transparency

Improved transparency for wind and solar generation is a key issue. In many Member States, wind and solar energy capacity has increased significantly during recent years. Others will follow suit. Due to its high volatility, especially wind but also solar power generation is frequently the fundamental driver for price development in the electricity spot and forward markets. Therefore we support the report's recommendation to publish a day-ahead forecast for wind and solar power generation output.

However, there should also be a clear obligation on TSOs to make public **all** available forecasts during intra-day trading as and when they become available. Currently, German TSOs do not make these forecasts available beforehand to the public although renewable generation in Germany does have a significant impact on the availability of international cross border capacities as well as the neighbouring energy markets.

To improve the situation here there should be a second forecast at 8 a.m. during the intra-day market. Finally, with respect to larger offshore wind installations, we strongly recommend a specific reporting regime regarding outages in offshore grid connections where total capacity exceeds 500MW in total.

Minimisation of administrative burden

The Commission should seek to minimize to the extent possible the administration burden put on the market participants as a result of the transparency requirements. In particular the Commission should seek to avoid any duplication of notification requirements, particularly in terms of parallel notification of data to more than one – European or national – administrative body. Already we expect all the information specified in the ERGEG guidelines to be notifiable as "insider information" under REMIT.

Question 2:

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

RWE advocates standard and watertight European definitions. Definitions need to be clear and unambiguous, particularly regarding the application of thresholds. This will need to be clarified by ACER as part of its responsibilities in implementing REMIT.

One example is the definition of unavailability, which needs further clarification. It 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 un-

availability which becomes visible, or is decided upon, less than one hour in advance of its actual occurrence shall be referred to as unplanned. 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.

In addition we are concerned that the provision on the unavailability of consumption units will not sufficiently improve load transparency. Typical industrial installations consist of many small (< 100MW) units, but which together have a load of more than 100 MW. In such cases unavailability of one unit (even if < 100MW) can easily cause a reduction in load of the whole installation. We therefore recommend that the criteria should be clarified: the aggregate sum of all plants of a consumer operating a single location should be considered as one unit.

Similarly, the threshold needs to be carefully defined for generation since capacity/unavailability may be below 100 MW while the plant capacity/unavailability relating to more than one unit may be considerably higher. In order to ensure consistency with the load definition, it could be possible for generation/consumption sites with several units below 100MW to report output for the whole site.

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)?

We are convinced that the positive effects of a unit-by-unit publication by far outweigh any competition concerns, which we are not convinced exist at all. Indeed we would regard the requirement to publish detailed data to **all** market participants to be an effective protection against collusion between a smaller number of companies.

General: positive effects of unit-by-unit publication

Unit-by-unit publication of generation and consumption data is crucial for the largest possible range of market participants to be active. By contrast, aggregated information gives market participants (particularly non incumbents) far less insight as to the market impact of individual events and, therefore, will mean fewer active companies, lower liquidity and less efficiency gain for the market. We regard unit-

by-unit information to fall under the auspices of REMIT and that publication of such data is now a legal requirement.

Specifically, an efficient wholesale market requires the release of **ex ante** forecast information on:

- demand levels by region and time period,
- available transmission capacity between regions (including likely expansions in capacity),
- available generation capacities.

However, mere ex-ante **aggregated** data do not allow market participants to assess the consequences of an outage. They have no indication how long the outage will continue and they are unaware of the unit's location in the network (which is crucial if the network is congested). So the market needs to know:

- the name of the consumption units,
- the location and bidding area,
- the installed capacity,
- available capacity during the event, and
- the expected duration of the outage.

These pieces of information are also crucial for the **ex-post evaluation**. Understanding past events and their resulting impact on prices is an indispensable element of forming a forward view on market developments. In addition to receiving important data in advance, traders therefore also need to understand actual events through analysis of detailed information after the event. At a broad level, this requires the release of detailed ex post information on:

- actual demand by region,
- actual flows between regions, and,
- actual production.

Only unit-by-unit information allows market participants to analyse the consequences of outages to the markets.

Risk of collusion on the electricity market

Possible collusion should not be a significant concern preventing greater transparency for generation and consumption information.

- Greater transparency will encourage competition and new entry. The more market participants that exist, the lower the likelihood of collusion being effective.
- A requirement to publish to all market participants will be an effective way to prevent collusion between a smaller sub-set of the market.
- Preventing information release on the grounds that it aids the exercise of market power does nothing to address that underlying market power.

- Implicit (and explicit) collusion is prohibited by EU and national competition laws and participants engaging in anti-competitive conduct face significant fines. Competition authorities should follow established practices in investigating possible breaches of the Treaty rather than presuming that these will occur on an ex-ante basis.

Effects on energy consumers

As a starting point, we believe 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 and a 100 MW consumption unit, because any unexpected outage will have a similar degree of influence on the market. A unit-by-unit publication of energy consumption facility is valuable to the market as it allows market participants to analyse not only the consequences of a facility outage, but also to forecast the consumption for certain industries.

However, regulators need to strike a balance between protecting the commercial position of individual market participants and the benefits of information release to the wider market. The commercial needs of individual consumers need to be balanced against the informational requirements of the wider market. In particular, every purchase made by a generator to cover a short position resulting from a planned outage is matched by a corresponding sale from another market participant. If only the generator knows that prices are likely to rise once the wider market becomes aware of an outage, the seller faces an asymmetric risk to the buyer, which will reduce market liquidity, increase bid-offer spreads and will increase the costs of trading in the market to the ultimate detriment of consumers.

In a liquid, competitive market, a single outage by a single market participant is unlikely to have a major impact on price and the possibility of a participant being “squeezed” becomes relatively low. All this suggests that electricity consumption data should be published immediately on a unit-by-unit basis since these data improve market efficiency.

The guideline must ensure that, as a practical matter, large energy consumers will fully comply with the transparency requirements. In the past, energy consumers have been more reluctant than generators to offer consumption data to the public. Taking into account this hesitance, a functioning enforcement mechanism for energy consumers is necessary. In particular, the guidelines must make sure that energy consumers do not allocate consumption to a number of smaller units below the threshold in order to evade their transparency obligations.

Only if consumption units can demonstrate that such publication causes concrete harm to them on other markets, they should be allowed to report for an aggregated publication only. But even in this case, the guidelines must make sure that **all units** above the threshold are at least included in the aggregated publication.

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)?

RWE strongly supports the plan to make actual unit by unit generation output available as it is an important tool to analyse the market – see answer to question 3. Again, we do not see how such 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.

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)?

See our answers to the question 4 and 5. An hourly update of the unit-by-unit information is crucial to give market players the required transparency and the amount of total supply.

Unit-by-unit data is already offered by private transparency platforms (i.e. Gen-scape and voluntary initiatives). Competition abuses have not been seen. On the contrary, the development of transparency platforms has strengthened market entry of further market participants.

Question 6:

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

No, but 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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