

STATEMENT

GUIDELINES ON FUNDAMENTAL ELECTRICITY DATA TRANSPARENCY

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The VKU represents 1,400 local utilities in the areas of energy, water and waste disposal. In the end-user segment they have a share of 54.2% in electricity, of 51,4% in natural gas, of 53,6% in provision of heating and of 77,5% in the provision of drinking water. The wide range of services provided by local utility companies is reliable, environmentally compatible and affordable for the consumer. They make a significant contribution to regional economic development. With over 240,000 employees the individual segments together generated revenue in excess of 90 billion euro in 2008. Investments amounted to 8 billion euro. The majority of these investments took the form of contracts placed with companies located in the region.

General Remarks

VKU welcomes the initiative of the regulators regarding the implementation of more transparency in the electricity market. A data transparency platform can be appropriate, in order to present fundamental data standardized and make it available to the market participants. It is to be expected, with that measure, the internal energy market will be strengthened, as it is the goal of the European Commission.

Several transparency platforms have been established on the market. Besides the German platform, other platforms e. g. NordPool, for the northern European market, exist.

Generally we want to emphasise that for example in Germany there has already been created a well functioning and well accepted instrument for transparency on a voluntary basis – the EEX Transparency platform. The Federal Network Agency, as the German regulatory agency, has been involved in the process at all times and supports the project. The agency is responsible for controlling if implementations of disclosure requirements are adhered to.

VKU suggests using the experience of member states and benefiting from existing systems. Therefore it is conceivable, that messages from market participants will be transmitted to the respective decentralized platform, as it is done now. There they will then be aggregated and transmitted to a central meta-platform. Further platforms like this can be implemented in other European regions, in order to achieve an extensive degree of coverage.

This procedure seems sensible, since contracts had to be signed on a regional level between several hundreds of market participants, producers, transmission system operators and consumers. On a European level this would easily summarize up to tenth of thousands. The result would be a very substantial data administration effort and difficult to manage. Furthermore the subsidiary has to be taken into account. The advantages, as close proximity to the party concerned, manageable amounts of data and the possibility to react to regional specifics, are given.

Moreover the issue of the rule of law and liability in a European context has to be considered. It seems to be much more complex and companies expect higher expenditures, if a pan-European is established. Taking the proposed model of several decentral platforms into account, the collecting of data, legal and liability needs would be much easier to meet, because stakeholders would have to deal only with regional authorities. Using existing decentral platforms would reduce the risk of stranded of all participants.

Of course an alignment has to be achieved regarding obligation to inform, as well as data formats, times and deadlines. It has to be taken into account that especially small companies should not be burdened excessively. Particularly the obligation to inform for facilities below 100 MW and notices regarding unplanned failures within 15 minutes to the planned extend do not seem feasible. Small and medium-size

companies must have the possibility to be active participants on the market, despite small resources in personnel, since they ensure competition on the generative market. Beyond that, facilities of that size have minor market relevance. The danger does exist, that the collection of data regarding many of these small size facilities will lead to a confusing gathering of data without merit.

Moreover VKU would like to emphasize, that TSOs take part in the energy wholesale markets (e. g. procurement for net loss). That's why a considered central platform should not be run by TSOs but by a neutral operator.

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?

No.

Question 2

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

According to the ERGEG draft and also as far as the existing EEX-Transparency platform is concerned in many cases the limit of "100 MW" is used to differ relevant from non-relevant data, e.g. in 4.1.3.7/ 4.1.3.8 . To keep time and effort on a sensible level this limit should be fixed as maximum of collecting data and should be part of the definition adding to 2.5.6 and to 2.5.10 "relevant consumption units/ generation units under this regulation are those larger than 100 MW".

The term "generation unit" should be crucial and "production unit" should not be part of definitions. Using "production unit" and "generation unit" in parallel leads to lack of clarity and raise discussions. Introducing the limit of 100 MW supports the Commissions goal to reduce unnecessary bureaucratic effort.

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)?

Obligations to publish should be equal whether consumption or generation is concerned because the influence on the market is the same. Although there might be higher acceptance of consumption units if an aggregated publication is implemented the benefit of aggregated data is much less and should not be looked upon as sufficient.

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)?

Unit-by-unit data is already offered by private transparency platforms (i.e. Genscape). Hence, if data transparency in the sense of the consultation would be a problem, potential competition abuse could already occur. Furthermore many generation-data are already publicly available as part of the emission trading regime.

it has to be ensured that individual data transparency does not lead to competitive disadvantage (for example cornering).

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)?

Transparency is considered to prevent anticompetitive behaviour. A coordinated interaction of market players could be enabled but because of the increased transparency the possibility of detection would be much higher.

Question 6

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

In our view, for all transparency requirements de-minimis-rules should be considered. Without them a positive cost-benefit ratio is hard to achieve.