

CEER Response to DRAFT THINK REPORT "Shift, not drift: Towards active demand response and beyond"

24 May 2013

1. Introduction

The Council of European Energy Regulators (CEER)¹ welcomes the draft THINK Report "Shift, not drift: Towards active demand response and beyond" in the interest of engaging consumers to participate in demand response. The report will be a useful addition to the current debate on demand response. CEER recognises the potentially significant value for consumers as well as for the industry from the efficient use of demand response and the importance of creating the right environment to unlock that potential. CEER has been and is continuing to explore this issue.

It is right to consider whether current market arrangements are appropriate to facilitate the efficient use of demand response across different participants in the electricity system as it evolves. We agree that regulation needs to empower and protect consumers such that they can engage effectively with the market for demand response products and services. Such regulation should be guided by the principles set out in the CEER customer vision, presented below.

CEER has during several years explored how to develop the European energy markets as to become attractive and beneficial for the consumers, where we have identified demand response as being one of the possible tools to engage them. The Climate and Energy Package² have further accelerated this aim. To clarify and highlight consumer interests, CEER and BEUC, the European Consumers Organisation, developed a joint 2020 Vision for Europe's Energy Customers³. It is a vision that puts customers first: a sector that engages with, and understands the diverse needs of customers, be they residential consumers, including the most vulnerable ones, or small businesses. A sector that anticipates future needs and takes steps to protect the interests of current and future customers. A sector that uses resources efficiently, ensures that their activities translate into social benefits, and offers all customers a fair and affordable deal for their services.

The Vision consists of four key areas:

- Reliability – in the physical supply of energy, and in commercial systems and processes that provide continuous access and affect customer service levels, such as

¹ CEER is a not-for-profit association in which Europe's independent national regulators of electricity and gas voluntarily cooperate to protect customers' interests and to facilitate the creation of a single, competitive, efficient and sustainable internal market for gas and electricity in Europe.

² http://ec.europa.eu/clima/policies/package/index_en.htm

³ This includes electricity, gas and district heating. http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Customers/Tab3/C12-SC-09-07_3yrActionPlan_07Nov2012.pdf

billing. It also means reliability in the processes that allow problems and disputes to be resolved transparently, fairly and quickly.

- **Affordability** – such that charges are clear and kept to fair and reasonable levels for all customers, reflecting value for money at a level consistent with funding necessary investments to develop energy networks and to achieve energy policy targets (for example renewables), taking into account the real needs of customers. This can be secured through network regulation and other appropriate measures, if and when necessary, and by providing customers with effective choice over truly competing offers and new, innovative services. Energy sector specific measures as well as wider social policies also have an important role to play, especially for the poorest and more vulnerable.
- **Simplicity** – in how information is provided to customers, and especially residential consumers, such that it is easy for them to understand their bill and better manage their energy consumption, making the choices that are right for them. It also means simplicity and transparency in how key processes that affect customers operate. Many customers, and especially many residential consumers, want to be able to take quick and simple decisions in energy markets.
- **Protection & Empowerment** – to ensure access to energy supplies, and to guard against unfair commercial practices and unsatisfactory outcomes, recognising the diverse needs of customers, in particular the most vulnerable in society. For customers to be engaged, to take choices and to exercise their rights as energy customers, based on trust in, and knowledge of, how the energy sector operates. As responsibilities shift and consumers are increasingly expected to become more active in energy markets (through developments such as demand response, smart metering, micro-generation or energy efficiency measures), the Vision recognises their right to choose by whom and how their energy is to be provided and charged. Although this freedom could be framed by regulation, offering meaningful choice for customers (including residential consumers) is a key way to ensure their full protection.

These four key principles are all very important to take into account when developing demand response to ensure that consumers are put at the very centre of the energy market. Technical development will only succeed for the customer if it is based on the four key areas of the customer Vision.

In relation to the draft THINK report “Shift not Drift”, CEER below presents general comments regarding simplicity in demand response, vulnerable customers, aspects on the grid tariff in relation to demand response, real-time markets and finally relevant on-going and future CEER work. In an Annex, we present comments and suggestions to specific chapters in the draft report.

2. General comments

2.1 Simplicity in demand response

The draft report expects that residential and small and medium-sized enterprise (SME) consumers will participate in demand response through dedicated “demand response contracts” that are, in principle, distinct from “electricity supply contracts”. And that the electricity supply contract arranges the provision of electric power to a consumer by an

electricity supplier. A demand response contract, on the other hand, governs the relationship between the consumer, who adapts his consumption in response to a signal, and the counterparty that provides this signal.

To begin with, it is important to identify that the customer in this smart world will face a more complex situation, also in the sense of more contracts. For many customers, it may mean a change from one contract to two or three (or more?): for the grid and for the supply, and for the demand response. As a result, only those customers who have the will and the knowledge face a more beneficial situation – the possibility to reduced costs for their electricity consumption as well as being able to contribute to a better environment. Another aspect is the fact that electricity demand is relatively inelastic, hence, there is a need for extensive automation and remote control of appliances. This necessitates a very clear (legal and regulatory) framework to make clear the responsibilities and rights of each party involved (including the customer).

To prevent customers from experiencing the electricity market as too complex, risking non-activity, CEER recognises⁴ that there are some key points in the market structure that need to be in place:

- Customers' understanding of information on the electricity market;
- Customers' offered easy ways of becoming aware (e.g. new contracts);
- Customers' trust in the market and thus wanting to participate; including customers' clear identification of potential financial benefits or incentives in order to become active;
- A non-conflicting grid tariff; and
- The absence of price regulation (without prejudice to regulated prices set for vulnerable customers provided they do not distort the functioning of the market).

Customer trust in the market can probably be regarded as the very basis for interest and activity. Trust can be built in various ways, but CEER emphasises that the service providers should aim to give customers appropriate information on offers, with the goal of creating customer awareness of how changes in lifestyle or occupancy can impact on household's consumption patterns and therefore their final electricity bill.

2.2 Vulnerable customers

The EU Member States choose, for various reasons, to support vulnerable customers in different ways, some by explicitly taking care of them within energy regulation, others by incorporating them in the regulation of the social welfare systems. It is of utmost importance to recognise and respect that Member States can use different solutions, as long as the goal is reached: to protect vulnerable customers. CEER therefore suggests an amendment in chapter 2.4.2.5 in the draft report (please see Annex).

The draft report states in the chapter on vulnerable customers that low educated consumers might not understand the additional complexity and uncertainty that they are expected to deal with as active consumers". CEER recognises that trouble in understanding these issues does not only relate to what we might regard as vulnerable customers. Simplicity is needed for a majority of customers, be they vulnerable or not. The draft report could consider having a special chapter on the importance of the customer perspective in general. To succeed in

⁴ [CEER Advice on the take-off of a demand response electricity market with smart meters \(Ref: C11-RMF-36-03\)](#).

demand response schemes, reliability, affordability, simplicity, protection and empowerment are key.

2.3 Grid tariff aspects in relation to demand response

To avoid complicated situations when understanding the total energy cost, to facilitate comparison of offers and to enhance for intermediaries to develop offers to customers, it is important that grid tariffs comply with a demand response world.

CEER recognises⁵ that the increase in renewables in the grid and an increase in the level of demand response will require the development of new models for system management. The daily and hourly profiles of electricity demand at system level differ with respect to the profiles of consumption and power flows in medium voltage distribution networks and of consumption and power flows in low voltage distribution networks. A flat demand profile at system level allows for the reduction in the need for new generation capacity and system services. A flat power flow profile in distribution networks allows for a reduction in the need for distribution capacity and decreases the losses in distribution networks.

As a consequence, different consumer responses are best placed to flatten system demand or to flatten the power flow profiles in distribution networks. Further, power flow profiles vary across local distribution networks. Generally, the consumption patterns, the use of voltage levels and the characteristics of the generation set differ significantly across countries. These national conditions determine different values for the benefits at system level and at distribution level which can be achieved in each country through demand response measures.

This theoretical scenario is suitable for areas where it is possible to have a flat demand profile. However, in a demand response environment with price signals from the wholesale market affecting the customers' use of electricity, it is likely that a larger amount of energy will be used when the price is low. This can cause constraints in the local network. CEER sees a number of ways of managing this, among others to have:

- a flat non-flexible network tariff, combined with a well-functioning demand response market with price signals that reflect wholesale prices. This could result in the need for significant investments in the network but increased transparency for the customer; or
- capacity-oriented network tariffs, semi-flexible, a limited number of predictable tariffs combined with demand response signals from the wholesale market. This would result in optimisation of the local grid with a possibility to balance network constraints. This alternative means that the customer could have, as an example, a network-tariff based on kW. This alternative would mean that there are a couple of different grid tariffs but not too many as to make it extremely complex for the customer; or
- highly flexible and innovating pricing formulas for network tariffs combined with demand response with price signals from the wholesale market. This would result in optimising of the local grid meaning a minimum of network constraints but a possible result is conflicting price signals from the wholesale market. This could increase complexity and confusion for the active customer and for other actors on the competitive market if not properly addressed.

⁵ CEER Advice on the take-off of a demand response electricity market with smart meters.

CEER recognises that each NRA has to consider this in relation to network tariff-regulation in order to facilitate a well-functioning demand response. However, it is very important to note that pricing, for example time-of-use pricing, is part of the decisions made in the competitive market and should reflect the access to - and need for as well as the cost-reflectiveness of - energy at any given time. For suppliers to be able to give customers offers that reflect actual consumption patterns, DSOs/metering operators have to enable smart metering systems capable of recording consumption on a configurable time basis.

The DSOs' role with regard to demand response should be restricted to the basic requirements necessary to facilitate demand response. This is a delicate balancing act between a possible variety of innovative network tariffs and customer confusion and increased complexity for NRAs as well as reduced transparency. We also see the risks of increased complexity in network tariffs in relation to suppliers and energy service companies, when they will develop offers reflecting actual consumption particularly in Member States with multiple DSOs. Last but not least, the customer has no power in negotiating network tariffs – it is important to minimise the extent of the areas in the electricity market where the customer has limited possibilities to act. We should also remind here the main mission of the network operators i.e. security and reliability of the network.

CEER acknowledges that there is likely to be an increased diversity, which may lead to complexity, in the range of tariff offers. This poses new opportunities and risks for customers' possibility to make price comparisons.

2.4 Real time markets

In relation to the real-time market proposals in the draft report, CEER would like to highlight the need for further investigation and the sorts of principles that any potential future market model would need to adhere to.

The draft report notes that for demand response to develop there is likely to be a need for clearer price signals across the system - to encourage market participants to engage and enable them to benefit from demand response. The proposal to move towards a real-time market in which consumers participate alongside the supply side is one of a range of possible market models that have been identified. Further consideration needs to be given to whether this or other market models can best unlock the potential for demand response in a way that is consistent with the CEER-BEUC Customer Vision. This should include consideration of the consumers' ability to engage effectively in the market for demand response, as well as the appropriate roles and responsibilities of different participants, including TSOs, DSOs, suppliers, intermediaries and customers.

It is also worthwhile noticing that in several countries the imbalance costs are already (partly) passed to different market players. The TSO is usually responsible for balancing the system following the current European rules and in future the network codes. The procurement of the TSO ensures an efficient allocation of resources, including failure reserve. For an end user, the effort of being responsible for his/her balance seems to exceed the advantages. Furthermore, conformity with the future network code balancing is mandatory.

The concept of a real-time market has advantages but also obstacles which need to be addressed before taking a decision.

3. On-going and future work of CEER

In relation to the THINK report, CEER would like to highlight on-going, future and published deliverables by CEER.

The 2013 on-going customer work includes an analysis of the involvement of consumer organisations in the regulatory process; a review of how smart metering is progressing across Europe; and a review of current practices in terms of customers' access to information on the cost and sources of their energy as well as energy efficiency schemes. Advice will be formulated on data management for better retail market functioning and on electricity green offers.

In 2014 it is envisaged to investigate on Demand Response in Europe through a Benchmarking report. What are the existing electricity offers (Time of Use (ToU), dynamic and critical peak pricing) from suppliers? How do aggregators (and other similar actors) work and communicate with customers? Which are the regulatory barriers for these business models?

Published CEER documents related to the THINK report:

[A 2020 Vision for Europe's energy customers](#)

Advice on the take-off of a demand response electricity market with smart meters, Ref. C11-RMF-36-03, 1 December 2011

CEER submission to European Commission Consultation on Alternative Dispute Resolution (ADR) Ref. C11-RMC-46-03, 8 March 2011

GGP on Regulatory Aspects of Smart Metering for Electricity and Gas, Ref. E10-RMF-29-05, February 2011

ANNEX

Comments and suggestions to specific chapters in the draft THINK report “Shift not Drift”

Chapter 2: Necessity of an adequate range of contracts

General comment: CEER recognises the need for a range of contracts types, to customise the customers’ needs and to increase the competition in the market.

Chapter 2.1 Range of contract types

This chapter presents five different contract types “that could be offered in the electricity market”. CEER suggests a clarification on the role of the DSO/metering operator in this respect. CEER regards the DSO/metering operator as a neutral market facilitator, responsible for the basis of demand response. The DSO/metering operator enables smart metering systems capable of recording consumption on a configurable time basis.⁶

Chapter 2.4.2 Recommendations for contract selection

We suggest adding the underscored word in the following sentence: “Fourth, consumers must be able to rely on protection of personal information they reveal before, during and after selecting a contract.”

Chapter 2.4.2.1 Consumer profiling

Before concluding a contract, the service providers should aim to give customers appropriate information on offers, with the goal of creating customer awareness of how changes in lifestyle or occupancy can impact on household consumption patterns and therefore their final electricity bill.⁷ Hence, what the draft report refers to as “customer profiling” is good, as long as it is conducted in full transparency with the customer (who is not always a “he”), and not started until there is a customer consent. We suggest that sentence be added.

Chapter 2.4.2.2 Contract comparison tools

CEER welcomes the recognition of our Guidelines of Good Practice on Price Comparison Tools.

Chapter 2.4.2.3 Optimising the range of contracts: model contracts

The draft report states that “the regulator might have a role in this optimisation of the range of contracts ...”. CEER agrees to this, while at the same time stressing that the decision to enter into this role must be made nationally.

Chapter 2.4.2.4 Protection of personal information

⁶ [CEER Advice on the take-off of a demand response electricity market with smart meters](#) (Ref: C11-RMF-36-03)

⁷ [CEER Advice on the take-off of a demand response electricity market with smart meters](#) (Ref: C11-RMF-36-03).

As has already been said above, CEER recognises that information sharing is one key factor when considering customers' trust in the market. Sharing data is important, but it has to be done from the customer perspective. CEER would strongly recommend that the draft report take the following into account regarding protection of personal information and customer control of metering data:

It is always the customer that chooses in which way metering data shall be used and by whom, with the exception of metering data required to fulfil regulated duties and within the national market model. The principle should be that the party requesting information shall state what information is needed, with what frequency and will then obtain the customer's approval for this. Full transparency on existing customer data should be the general principle. For instance, when a service provider is in charge of information on the customer's voltage quality the customer should in this case be able to a) know that this data exists, and b) receive information on the explicit data. This information could be subject to a reasonable fee.⁸

Chapter 2.4.2.5 Protection of vulnerable consumers

The EU Member States choose, for respectable and various reasons, to support vulnerable customers in different ways, some by explicitly taking care of them within energy regulations, others by incorporating them in the regulation of the social welfare systems or a combination of both options. CEER therefore suggests the following change, underlined, in this sentence: "In the light of the on-going work in the Citizen's Energy Forum's Vulnerable Consumer Working Group and of the development of an energy policy for consumers, we can observe here that additional protective measures for vulnerable consumers are justified; in fact, a basis already exists in the framework of the internal market for electricity (EC, 2009c; EC, 2010a):" This does not hinder Member States for protecting vulnerable customers through the regulation of social welfare systems, or through specific measures or a combination of both option.

Chapter 3 Need for an adequate range of intermediaries

General comment: From the customer point of view it is important to understand what a future scenario would look like, in light of the different intermediaries presented in the draft report. CEER would therefore suggest adding a figure, possibly after Figure 4, with the consumer in the centre, and then showing all the possible contract relations between the consumer and the intermediaries by names: supplier etc, not just one (as in Figure 4).

Chapter 3.5 Recommendations to achieve an adequate range of intermediaries

- (1) **Licensing scheme:** The draft report states that "Currently, there is already a similar scheme for suppliers so that any actor willing to provide supply services must fulfil certain predefined conditions, which are recognised by the attribution of a license".

The existence of licenses for suppliers varies across Member states. CEER would therefore suggest the following addition:

"... in some EU countries there is already a similar scheme for suppliers ..."

⁸ [Final Guidelines of Good Practice on Regulatory Aspects of Smart Metering for Electricity and Gas](#) (Ref: E10-RMF-29-05, February 2011), recommendation E/G 1

- (2) **Disaggregated billing:** CEER believes that the customer should have easy access to comprehensive data on his/her consumption and cost. However, the customer might not want to receive this information only through the bill, especially when frequency of billing is annual. The customer must be able to choose from different communication channels and frequency of information. CEER would therefore suggest the following addition:

”The obligation to provide disaggregated billing information frequently enough for intermediaries who provide a bundle of services may facilitate the comparison of offers from different intermediaries.

- (3) **Non-discriminatory access to data:** The draft report states that “there is the need to ensure a non-discriminatory access to data for the different intermediaries. For instance, regulation could enforce mandatory information sharing regarding the regulated services with all market players and prohibit information transfer from the regulated activity to the deregulated activity, so that an integrated DSO would not have an information advantage compared to other intermediaries.”

CEER recognises that information sharing is one key factor when considering customers’ reliability in the market. Sharing data is important, but it has to be done with the customer in the driver seat. CEER would strongly recommend that the draft report take the following into account regarding customer control of metering data:

As already mentioned in chapter 2.4.2.4, it is always the customer that chooses in which way metering data shall be used and by whom, with the exception of metering data required to fulfil regulated duties and within the national market model. The principle should be that the party requesting information shall state what information is needed, with what frequency and will then obtain the customer’s approval for this. Full transparency on existing customer data should be the general principle. For instance, when a service provider is in charge of information on the customer’s voltage quality the customer should in this case be able to a) know that this data exists, and b) receive information on the explicit data. This information could be subject to a reasonable fee.

Due to the importance of reliability, CEER would suggest the following addition:
“Moreover, there is the need to ensure a non-discriminatory access to data for the different intermediaries, after consumer consent.”

- (4) **Independent dispute resolution mechanisms:** CEER recommends the following improvements for an effective Alternative Dispute Resolution (ADR)⁹:

1. ADR bodies must work to ensure customers know this tool is available to assist them by communicating widely on the availability of ADR;
2. Customers should contact the trader in the first instance when they have a complaint. ADR should be used if the trader/customer cannot resolve the complaint;
3. The independence and integrity of the ADR body should be ensured, to promote customers’ trust in the process. The ADR body’s funding should be transparent;

⁹CEER Position Paper on the Commission proposal Directive on Consumer ADR, COM(2011) 793, 12 March 2012

4. The branding of ADR bodies and any trader complaint handling and complaints services should be distinct and not create any confusion for customers;
5. It is important to ensure ADR systems operate efficiently and provide value for money; and
6. Where a trader is part of a vertically-integrated company, relevant authorities should monitor closely whether this affects customers' rights and market competition market.

CEER suggests that these six aspects are added in the draft report.

Chapter 5.2 Recommendations

The draft report states that "Before intervention at any level is to be considered, well-functioning markets can already provide some elements needed for the transition to active demand response". CEER recognises that well-functioning markets need cost-reflective prerequisites, among which the absence of non-conflicting end-user price regulation is one. Since that is closely linked to the efficient development of demand response schemes, CEER suggest that this is highlighted in chapter 5.2.

Furthermore, CEER welcomes that guidance in the form of *good practice codes* can be developed.

The draft report suggests that "*transparency rules for contracts and billing information* should be developed. National authorities must ensure that consumers have access to disaggregated billing information when demand response is bundled with other service offers to allow them to evaluate the performance of their contract selection and to compare it with other contracts on the market".

CEER supports the customers' right to access to disaggregated data, and we would especially like to stress that having access to data a) does not necessarily mean that it must be presented only on the bill, the customer may prefer to have it on a customised website for example, and b) is not automatically the same thing as easily available or possible to understand - simplicity is sought and must be emphasised. In this regard, European Regulators issued the following recommendations¹⁰:

Information on actual consumption and costs, on a monthly basis, free of charge: This recommendation only covers information, not billing. We believe that the customer (as well as those that both generate and consume electricity) should be properly informed - at least once a month - of actual electricity consumption and costs. This information should be free of charge. This enables the customer to regulate electricity consumption. With *remote data reading* through smart meters, information should be easily available and should be transmitted monthly to the relevant market actor.

When communicating with the customer, the service provider should offer a choice of different channels to provide this information for free (e.g. sms, internet, call centre). Service providers need to take into account other means of communication such as paper. This could be offered at a reasonable fee. Vulnerable customers will need to

¹⁰ GGP on Regulatory Aspects of Smart Metering for Electricity and Gas. Ref: E10-RMF-29-05

be especially taken into account. We do not state in this report which service provider should provide this information. The information must be presented in a customer-friendly way, bearing in mind that customers' understanding of the electricity market is key for their confidence and active participation.

Access to information on consumption and cost data on customer demand:

On demand, the customer (as well as those that both generate and consume electricity) should be able to access information on his/her up to date consumption and injection data and costs. When communicating with the customer, the service provider should offer a choice of different channels to provide this information for free (e.g. sms, internet, call centre). Service providers need to take into account other means of communication such as paper. This could be offered at a reasonable fee. Vulnerable customers will need to be especially taken into account. Concerning historical data, customers as well as those that both generate and consume electricity should have access to data at a frequency set nationally, free of charge.

CEER suggest revising the following in the draft report:

“Transparency rules for contracts, billing, consumption and cost information should be developed. National authorities must ensure that consumers have easy access to disaggregated billing information when demand response is bundled with other service offers to allow them to evaluate the performance of their contract selection and to compare it with other contracts on the market. When communicating with the customer, the service provider should offer a choice of different channels to provide this information for free (e.g. sms, internet, call centre). Service providers need to take into account other means of communication such as paper.”

Concerning the need for new *alternative dispute resolution mechanisms*, we have already stated the following above:

1. ADR bodies must work to ensure customers know this tool is available to assist them by communicating widely on the availability of ADR;
2. Customers should contact the trader in the first instance when they have a complaint. ADR should be used if the trader/customer cannot resolve the complaint;
3. The independence and integrity of the ADR body should be ensured, to promote customers' trust in the process. The ADR body's funding should be transparent;
4. The branding of ADR bodies and any trader complaint handling and complaints services should be distinct and not create any confusion for customers;
5. It is important to ensure ADR systems operate efficiently and provide value for money; and
6. Where a trader is part of a vertically-integrated company, relevant authorities should monitor closely whether this affects customers' rights and market competition market.

Concerning the national need for introducing *new consumer protection measures*, CEER recognises that some countries may already have these measures in place (through data protection regulation, etc.). CEER therefore suggests adding the following:

“Fourth, national authorities should be required to investigate the need to introduce new consumer protection measures – to ensure adequate levels of data protection as well as to set up default schemes and if deemed necessary additional protection for vulnerable customers.”

Concerning the *licensing conditions*, CEER recognises that some countries have licenses for suppliers, other do not. Before deciding on a mandatory licensing system, the benefits for the customers need to be investigated. How do countries that have a licensing system monitor the behaviour of the supplier? How common is it that a license is retracted due to bad behaviour? What are the criteria for receiving a licence? How much trust can a customer put in a once licensed supplier? What are the costs for administration? Etc. CEER therefore suggests that the paragraph is changed to reflect the need for analysis.

Concerning *disaggregated data*, please see previous page.