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Comments on „Draft ERGEG Guidelines of Good Practice on Functional and Informational Unbundling – An ERGEG Public Consultation Paper“

Dear Sir or Madam,

Thank you for the possibility to comment the above-named paper.

The main focus of this paper is on unbundling of network companies but it seems that the main goal of this paper is to improve competition in the electricity sector. There are many ways to encourage competition in the electricity sector. The most efficient ones are to introduce harmonised market rules e.g. for customer switching, data transfers to all market partners, etc. A well functioning switching process is far more beneficial for competition than an over-regulated unbundling.

A lot of the suggestions in this paper are too expansive and will lead to disproportional measures. It seems that the suggestions in this paper will lead to over-regulated network companies. However, it is much more preferable that all European member states implement the requirements of the second electricity directive to the same extent. In Austria unbundling had to be implemented by January 1st 2006 on the basis of electricity law. Wien Energie Stromnetz is operational since October 1st 2005.

This paper lists various potential risks of insufficient unbundling. The arguments made in this case are very general and do not take into account measures taken by individual countries like Austria to improve competition.

In this paper ownership unbundling is seen as the best unbundling solution. However, it is not proven that ownership unbundling will lead to improved competition or increased network-investments. In contrast, we think that ownership unbundling will lead to less security of supply. Thus the implementation of ownership unbundling is refused.

Unbundling of functions

In Austria a lot of these suggestions are fulfilled in principle.

However, the suggestion of geographically separated buildings is going much too far. This will only lead to needlessly increased administrative costs that have to be passed on to the network customers.

Unbundling of professional interest

Some suggestions are already fulfilled in Austria.

Ad G08:

d) There seems to be no reason why regulators have to be involved in personnel decisions of a network company.

e) Normally due to labour laws the employee is obliged to nondisclosure of business information.

f) Especially this suggestion seems to be a kind of ban from profession.

g) The information to the regulator and his option to make an a priori opinion is rejected since this is not task of regulators.

ad G09:

Improving the identity of network companies shall not cause higher costs. These suggestions will lead to increased costs for the networking companies e.g. by separate call centres. Also the creation and design of branding strategies shall be the task of the management of networking companies. When improving competition in the electricity market it is necessary to harmonise general conditions like market rules etc and not to over-regulate network companies.

Unbundling of professional interest

Some of these suggestions are already fulfilled in Austria.

Ad G11:

The question whether or not a network company has enough human resources can only be verified by the management of this company.

Ad G12:

There shall be no restriction on personnel leasing from affiliated companies.

Ad G13:

In Austria this is fulfilled by contracts.

Unbundling of Information

In Austria a lot of these suggestions are already fulfilled in principle.

This chapter deals with information but there is no exact and complete definition which information is meant in this chapter.

Ad G23:

It is ambiguous which kind of commercially advantageous and sensitive pieces of information is meant that has to be documented. However, there has to be a clear definition.

Ad G24:

The separation of existing databases and the operation of separated databases will lead to nothing but increased costs that have to be passed to the network customers. In our view existing barriers and existing concepts for limited access are sufficient. Before implementing this very costly suggestion it seems sufficient to improve competition by establishing clear and transparent market rules for data transfer to all market partners.

Compliance programme

The requirements regarding the Compliance officer are in principle fulfilled in Austria. Thus, a more detailed regulation of the work of the compliance officer is not needed.

Ad G25:

It seems not to be useful that all processes of the network company are part of the compliance program.

It seems that the main goal of ERGEG is to improve competition in the electricity sector but the main focus is on unbundling of network companies. However, when improving competition it is necessary to harmonise general conditions like market rules etc and not to overregulate network companies.

Yours faithfully,

A handwritten signature in blue ink, appearing to read "ppa Paplitz", is written below the closing. The signature is stylized and cursive.