

VIK-Opinion

on the

**ERGEG Guidelines for Good Practice
on Information Management and Transparency
in Electricity Markets**

Essen, 8 May 2006

Introduction

VIK Verband der Industriellen Energie- und Kraftwirtschaft e.V. (German Association of Industrial Energy Users and Self-Generators) represents the interests of industrial energy users in Germany for whom energy is a significant component of production costs. VIK-members account for about 80% of industrial energy consumption and 90% of utility-independent electricity generation in Germany.

Energy prices are a key factor for the competitiveness of these enterprises. Despite the opening of the European electricity market in the wake of the EU-directive in 1996, experience has shown that there is no effective competition between multiple generators within the national markets, which are in fact still separated from each other. Wholesale prices remain high and are increasing even faster than before, especially since the beginning of 2005 when the EU emissions trading scheme was introduced.

Confidence in the wholesale market is undermined by a lack of transparency, which in turn leads to lower liquidity. As the EU Commission states in the preliminary report on the sector inquiry, 84% of the market participants feel that important information is not available. More worrying than the lack of available information is the problem of informational asymmetries. These create disadvantages for new suppliers and for small actors and also for (industrial) customers, since vertically integrated firms have an easier and quicker access to information that is known to their affiliates. E.g. the trading arm of an integrated firm may know earlier about an unplanned breakdown of the power plant of its generation sister than the rest of the market. This gives him an informational advantage.

Such information asymmetry and lack of transparency is leading to high prices that are judged as unfair since they are the result of discriminatory information policies. Increasing transparency and creating a level playing-field in terms of information is thus an important means to bring about effective competition in wholesale markets.

General remarks on the information disclosure process

The sector inquiry reveals that lack of transparency and asymmetric information is an area of great concern among market participants. Information is key for acting successfully in the electricity market. Thus, market players need to have access to all relevant information. More important is equal access to information, since positions of market dominance can be strengthened by privileged access to information. Taking into account vertical integration between generation, trading and retail, an informational advantage for integrated firms becomes evident. Despite unbundling provisions of the EU-directives (which mostly affect unbundling of grids) it can be presumed that the trading branch of a vertically integrated firm has easier access to essential information than an independent trader / retailer. This is particularly important for information about maintenance of plants or unplanned loss of generation capacity. This asymmetric information creates an informational advantage for integrated firms since they can act on such information before the information is made known to other market participants thus having an impact on wholesale prices.

This is clearly hampering competition process, deterring new entry and thus leading to high and increasing prices.

Increasing market transparency therefore is a tool that can help improve the functioning of the market, even if other measures should also be pursued. To improve transparency, the following steps are important:

- Create binding rules for information disclosure. The Guidelines for Good Practice as presented by ERGEG can only be a first step. ERGEG intends that the guidelines are put in place by national regulators. But this needs to be done in a binding way. A mere self-regulation via non-binding guidelines is not enough.
- Harmonization of publication requirements is necessary. Therefore a minimum level of information disclosure should be laid down, with the possibility for single member states to go further. Nevertheless, these minimum standards may not be minimalistic but must comprise the necessary data. EU-wide harmonization is needed especially because of cross-border trade (and to promote cross-border trade) by creating a level playing field in terms of information on both sides of a border. The determination of data that have to be published should follow a best-practice approach within the EU. This calls for an implementation by the EU-Commission that may take up legislative measures to ensure a harmonized implementation across member states.
- Data should be published in a uniform format and in a common language additional to the national language. Publication should be internet-based.
- Data should be made available to all market participants at the same time in a non-discriminatory way.
- As long as data are known to only one or a group of market participants, these players should be prohibited to act on this info unless it is made available to all other market part.
- Data should be available on a central platform (at the national level) instead of distributed over different homepages of several actors. Possible platforms could be provided by power exchanges, regulators or TSO's.
- VIK agrees with ERGEG's view that as a principle, more info shall be available than less, and that the onus shall be on holders of information to justify any withholding of info on a cost/benefit to market basis.
- Implementation of these requirements may not be delayed. If 2007 is seen by ERGEG as a period of appraisal, then effectively the guidelines will come into place only from 2009 on. This is too late.

Data to be made available

In the following we will comment on the data specifications laid out in the annex of the ERGEG-consultation paper. Where no comment is made, VIK agrees with ERGEG's view.

3.1. System Load – Load per Control Area

- Forecast data should be made available per market time unit
- Market time unit should refer to the smallest unit used in any EU member state (e.g. ¼ h should be the time interval used for publication also in countries where market time unit is 1/2h or one hour)

- Forecast margin seems not to be necessary since this can be derived from load and generation data (provided that publication of scheduled and available generation is ensured)
- Load data should not only be published per control area but also per voltage level (thus publication not only by TSOs but also by DSOs)

3.2. Transmission and Access to Interconnections

- To create more transparency detailed information is to be published on how available interconnection capacity is calculated. Today, an intrinsic incentive exists for TSOs to make available to the market only parts of the total physical interconnection capacity.
- Market time unit should refer to the smallest unit used in any EU member state (e.g. ¼ h should be the time interval used for publication also in countries where market time unit is 1/2h or one hour)
- Data on interconnector capacity should be published per border, not per single cable
- It is unclear what is understood by “A description of reasons and effects of any actions taken by TSOs that have impact on cross border trade”

3.3. Generation

- Market / system time unit should refer to the smallest unit used in any EU member state (e.g. ¼ h should be the time interval used for publication also in countries where market time unit is 1/2h or one hour)
- Data should be published in an anonymous way, but be disaggregated to plant level

3.5. Information from the Wholesale Markets

- Publication of supply and demand-data should take place on D+1