

ERGEG Public Consultation Paper on Draft Guidelines of Good Practice on Indicators for Retail Market Monitoring

A EURELECTRIC response paper



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EURELECTRIC Response to ERGEG Public Consultation Paper on Draft Guidelines of Good Practice on Indicators for Retail Market Monitoring

1. Introduction

EURELECTRIC welcomes the opportunity to comment on ERGEG's proposed Guidelines of Good Practice on Retail Market Indicators alongside other stakeholders. With the recent launch of a Commission Working Group to elaborate a Reference Retail Model, this publication comes at an opportune moment: we believe that these two processes complement each other well, as defining indicators for Retail Market Monitoring can help to examine how retail markets can work better for customers. We therefore particularly welcome the fact that the indicators have been drafted with a view to keeping customers' perceptions of the market at the centre.

Given the importance EURELECTRIC places on any measures which can help to improve Retail Market Functioning, we hope our comments can serve to highlight how the indicators can be further refined to optimize their effectiveness and to reach a balance between the added value of the indicators (which should be assessed) and the administrative efforts and costs to provide the necessary data. Our comments are grouped into general comments, supplier-specific and DSO-specific comments. Throughout the paper we address ERGEG's key questions, suggesting where proposed indicators could be more detailed or measured differently or left out and where additional indicators could offer useful insights.

2. General comments

Objectives

EURELECTRIC agrees with ERGEG that having a "*proper oversight of the retail markets*" is critical to evaluate the development of these markets since liberalization. Similarly, EURELECTRIC recognises the need for energy regulators to have a clear focus on the outputs of regulation.

We are mindful of the provisions in the Third Package to strengthen the role of National Regulatory Authorities in monitoring the level of market opening and competition in energy retail markets. EURELECTRIC therefore recognizes the value of these good practice guidelines in recommending to NRAs a comprehensive approach on how to monitor these developments on a national level and identify if the fundamentals of a well-functioning retail market are in place.

At the same time however, the inherent differences in retail market structures across Europe and the many variables determining how they function will mean that the validity of any comparisons between Member States will be limited.

It should therefore be acknowledged more explicitly in chapter 2 that the objective is not to compare indicator outcomes across Europe, but rather to agree on indicators for NRAs to monitor and evaluate progress in the functioning of their own national retail markets.

Approach

We appreciate the importance the text places on evaluating each indicator in conjunction with others rather than in isolation, which could otherwise result in simplistic or inaccurate outcomes. In several instances, the links between different indicators could even be further elaborated, for example the number of suppliers must be considered in parallel with regulated prices and indicator 11 on branding must be evaluated in conjunction with indicator 12 on switching.

Although ERGEG is convinced that differences in definitions of which customers should be covered by the indicators still allow for effective retail market monitoring by each NRA, we would like to emphasize that the primary focus should be on household customers¹ where possible. Where this is not the case, the consequences for the monitoring results should be made clear.

As regards the gathering of data, EURELECTRIC agrees with the principle that results should only be made available in an aggregated form as mentioned in the consultation paper. Moreover, we would like to point out that the final indicators proposed should be proportionate and pragmatic and therefore should strike a balance between the aims, the desired quality of results and resources necessary to provide the data. Wherever possible the data used should already be collected and publicly available. For the same reason the monitoring exercise should be carried out annually in principle, leaving the option open for information to be collected more frequently depending on the usefulness and availability of the data. In addition to this, on several occasions there is a need to account for potential inconsistencies in the way the indicator may be calculated or external factors that may affect the outcome. Failure to account for these would dramatically affect the reliability of the data. This is particularly the case for indicators on retail margin, end-prices, average time until connecting, average time until repair, relative number of disconnections, average time and average charge for executing maintenance services (see later for more detail).

A final comment with regard to approach concerns the decision to group “Market condition and DSO service” as one category. This could lead to misleading interpretations of the results as the section is designed to highlight any structural malfunctioning of the market, but confuses this by combining indicators such as switching rates and the performance of DSOs in the fulfilment of their duties. EURELECTRIC considers that indicators 1-13 relating to level of competition in the market should be clearly distinguished from indicators 14-19, which monitor quality of DSO service, so as to ensure that clear messages can be extracted from these indicators.

¹ As defined under Directive 2009/72/EC, Article 2 (10).

3. Specific Points from suppliers' perspective

Shortcomings of some indicators selected and suggested improvements

o Regulated prices (8)

We value ERGEG's emphasis on monitoring all processes in which a customer interacts with energy markets. However, we feel that the existence of **regulated prices** should be explicitly acknowledged as being one of the most significant barriers to the emergence of competitive retail markets, which in turn have a knock-on effect on many of the other indicators, namely the number of suppliers in the market and switching rates.

o Switching (12)

Given the importance of **switching** as an indicator, we feel this indicator could be detailed even further in the ERGEG paper, for instance by linking it to the number of renegotiated contracts and requesting (if available):

- a) Percentage of household customers/small enterprise numbers which have never switched;
- b) Percentage of household customers/small enterprises numbers which have switched more than once over a certain period.

It should be taken into account that when (parts of) the market are still regulated the results of this indicator could be distorted. Furthermore EURELECTRIC recommends monitoring the development of the results that this indicator delivers over a period of several years. As the ERGEG paper rightly points out, switching rates must also be considered in parallel with other indicators as switching rates can be, depending on the reasons behind a switch, an indicator of a bad or good functioning of the retail market; for instance a low switching rates does not always mean a low level of competition, and can indicate a high level of client satisfaction with the service. In the same context, in markets with low average consumption, low switching rates may be a result of the relatively small (financial) benefits that can actually be derived from switching.

o Renegotiations (13)

Regarding the "**Number of renegotiated contracts for household customers**" it is important to define what is meant by "renegotiating contracts". For instance, if a contract renegotiation deals only with a change of the contracted power, it cannot be associated with the dynamics of the retail market.

o Retail Market Outcomes

We feel that the indicators in the section on **retail market** outcomes would benefit from further review if the indicator results are to add value to information which is already being collected by regulators and third party bodies:

- End prices (4)

The ability of customers to compare **end-prices** is undisputedly of growing importance, if customers are to be able to make informed switching decisions. But if, as the Third Package indicates, NRAs are to monitor end prices effectively, this indicator needs to give more consideration to the practicalities of collecting this information so that outcomes do not give a skewed or distorted reflection of reality. Referring to one 'end-price' is problematic as there is no single price outcome that can be compared across the board because of the many different types of contracts and range of products offered. We would like to draw ERGEG's attention to the many variables determining end prices and inherent limitations of end-user price comparison even within one Member State. Take, for instance, differences in price update mechanisms used. Fixed prices are determined at the start of the contract for a fixed consumption period in the future. By contrast, prices which are directly linked to the wholesale market vary on a daily or monthly basis, depending on the contract. Precisely because end prices are such an important market outcome our view is that the end-prices indicator needs to be elaborated in much more detail.

If the aim of the monitoring therefore is indeed to obtain a complete picture, which takes all these variables into account, then the administrative burden that this would place on suppliers to provide this wide ranging information on such a frequent basis should be duly considered. The data used should at least be aligned with data already provided to statistical organisations (national and European) and price comparison initiatives (the same applies for indicator 6).

- Retail Margin (5)

EURELECTRIC is firmly convinced that using the **retail margin** as an indicator is not a reliable indication of retail market functioning. Comparison of retail margins is impractical and unnecessary, as indeed would also be the case in any other market and strikes at the heart of the very rationale for competitive markets. If anything, in truly unregulated and unconstrained markets it would be more relevant to consider the correlation over time of wholesale prices and retail price curves. While we appreciate the theoretical logic that a competitive market might be characterized by lower margins, in less competitive markets with regulated prices, retail margins may also be low. Likewise, a higher retail margin does not necessarily denote a less competitive market as it may indicate a company is looking to the long term and planning to invest in more generation facilities. It is thus far from clear that examining the retail margin will help to see if consumers are being priced fairly for their energy.

To add to this, the collection of data and calculation of the retail margin poses challenges for gathering consistent and comparable data. Suppliers will account for this margin very differently, especially as the apparent profits from the retail business will depend greatly on the actual or deemed hedging policy that is applied by individual retailers or combined retail / generation companies. Suppliers tend to hedge risk by contracting energy in forward markets. Consequently, spot prices will not be a good indicator of suppliers' costs, or margins. Moreover, forward markets are volatile and to make any relevant estimate of retail margins (even if based on forward markets) it would be necessary to know the dates, the quantities and the prices of the acquired energy, which is commercially sensitive information. Collecting this would go against the very rationale for competitive retail markets.

By contrast, the evaluation of price spread (indicator 6), alongside diversity of contracts (7), number of suppliers (9) and market concentration (10) offers more relevant and more fundamental information on the functioning of the retail market. Consequently, EURELECTRIC is of the opinion that the combination of the other retail market indicators listed is sufficient to give a good indication of retail market functioning, without the inclusion of the retail margin.

o Customer Satisfaction

In monitoring customer satisfaction (Indicators 1-3), EURELECTRIC feels that as well as collecting information from suppliers, there is a need to take into account customer perceptions. A customer survey carried out by regulators should therefore also be part of monitoring retail markets, (where appropriate additional questions could be added to existing surveys). This approach will provide information on customer satisfaction related to availability and transparency of consumer information, the perceived quality of customer service and examples of positive or negative experiences.

Furthermore, the introduction of the number of customer complaints and customer enquiries as indicators may require major changes to companies' information systems, so a transition period should be foreseen.

We also feel that indicator 3 on 'Customer Information' should be adapted to incorporate a slightly broader remit. Alongside the question whether a price comparison website exists, a question could be included on whether the European Consumer Checklist has been made available to customers, as this provides reliable information about the energy market for all consumers.

Additional indicators to consider

o Indicator on regulatory and technical barriers

Although we welcome the focus on the consumer's perception of the market, we feel insufficient attention has been paid to aspects of market-functioning which are not so visible to customers, but are nonetheless essential for the retail market to function efficiently, such as regulatory and technical barriers to market entry for suppliers. These go beyond regulated tariffs and include barriers such as 'overregulation', when legislation requires that all contract offerings and lengths must be the same, or public service obligations, which lead to high costs and too low margins to attract new entrants. This hampers the development of a functioning retail market, where competition is driven by attractive margins and product differentiation. Consequently, regulatory and technical barriers are in themselves an indicator of how well the retail market is functioning. In order for the approach to be genuinely 'comprehensive', we would therefore recommend that regulatory and technical barriers are included in the category 'market structure' as an indicator. In relation to this we would also like to highlight the importance of the existence of smooth and timely data exchange mechanisms between market actors and system operators for optimal retail market functioning, as these are important 'behind the scenes' processes, on which the supplier depends in order to deliver a high quality of service to the customer.

A further 'behind the scenes' indicator, which can indicate the level of maturity of a retail market is the level of liquidity of the wholesale market. Retailers need to be able to buy and sell power with ease.² An additional factor to bear in mind, linked to this, is the length of time since retail market opening as it usually takes a couple of years for competition to take off.

² The level of liquidity, which in turn fosters competition in the retail market can also depend on the level of interconnection capacity between countries.

4. Specific Points from DSOs' perspective

Shortcomings of some indicators selected and suggested improvements

EURELECTRIC is concerned about the exact scope of **indicator 11** as we think it goes beyond the legal basis of the 3rd Electricity Directive (art. 26-3) which foresees that *“vertically integrated distribution system operators shall not, in their communication and branding, create confusion in respect of the separate identity of the supply branch of the vertically integrated undertaking”*. EURELECTRIC therefore recommends that ERGEG relies on the exact wording of the 3rd Electricity Directive as mentioned above.

With regard to **indicators 14 and 15**, EURELECTRIC deems it important to take account of the reasons behind the delay/failures. Has the problem surfaced because of the DSO, the new supplier, the old supplier or the customer? So far the switching procedures are not harmonised and make it difficult to draw conclusions when comparing statistics from different countries. In some countries switching can only be initiated on certain days, in some cases the DSO has to actually read the meter. Typical reasons for the failure of the switch are problems with customer data, for example the connection is registered with someone other than the person who has contacted the supplier. The switching procedure should be monitored as part of the national DSO regulation.

We take note – following the adoption of the 3rd Package- of the presence of indicators 16-19 in this consultation paper and understand National Energy Regulators' obligations to monitor DSO services as part of their wider retail market monitoring exercise. However, EURELECTRIC considers that the “market condition” and “DSO service” aspects should be clearly separated in two distinct categories so as to avoid any confusion.

Moreover, we would like to stress that **indicators 16-19** will not *per se* provide insight into how DSOs act as market facilitators. Instead, they rather belong to discussions on quality of service. Accordingly, we think that indicators such as the SAIFI or SAIDI might deliver better results, provided that the results are measured against the background of diverging financial and geographical situations. For instance, distributing electricity in big cities is very different from distribution in rural areas. The different length or design of the grid or different local conditions means that a reliable comparison cannot be made.

As mentioned in the last Citizens' Energy Forum, EURELECTRIC's Networks Committee would be glad to further discuss DSO performance indicators with ERGEG in the future.

Additional indicators to consider

o Indicator on constraints to switching

EURELECTRIC observes that switching rates may depend on constraints on the switching process. That could be the case of having fixed days for switching (e.g. first day of the month) or an upper limit for the number of switches a customer is allowed to perform in a month. Knowledge of these constraints might be important to strengthen the “switching rate indicator”.

o Indicator on Smart Metering

Over the past year, the European Commission (along with the European Parliament notably) has repeatedly stressed that it sees in the first place the adoption of Smart Meters as a tool to enhance competition on retail markets through an increase in the ease with which customers can switch supplier. EURELECTRIC has indicated its support for the past policy actions along these lines and would support the use of an indicator that assesses the progress of the smart meter roll-out in the EU Member States (e.g. number of customers equipped with a Smart meter per Member State).



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