



*CEER Workshop on draft advice on EU
Wholesale Energy trading passport:*

EURELECTRIC preliminary views

31 May 2011, Brussels



Introductory Policy Messages

- EURELECTRIC generally supports initiatives to increase transparency and integrity of energy and carbon markets
- Energy Companies are substantially different from Financial Institutions: don't pose systemic risk, don't provide investment services, don't deal with non-professional retail clients
- Applying Financial Regulation is therefore not suitable for the Energy Sector: the best approach for energy (& carbon) markets are tailor-made regulatory solutions
- While fraud risks need to be addressed, customer protection ensured and national regulatory frameworks harmonised, a EU trading license may not necessarily solve this



Does energy trading need licensing?

- MS without such license requirements have developed the most liquid and best functioning energy wholesale markets
 - BUT: Some MS see need to have a national license
 - Other MS have imposed discriminatory barriers to trade which are not justified by registry/licensing needs
 - Import licences (including import/export fees)
 - Requirement to have a registered seat in a host State
 - Other additional national requirements
- ➔ The first goal should be to remove all unnecessary, burdensome and disproportionate measures

Does energy trading need licensing?

- To assess the need of a EU License regime some key questions to be answered:
 - What are objectives of a license?
 - CEER mentions: identification process; reduce unnecessary bureaucracy/barriers
 - fight fraud; others?
 - Would only a licence address them or are there other alternatives?
 - what about a registration process?
 - Markets work well without any entry restriction → will license requirements for energy trading make it better?
 - benefits deriving from license may not offset higher burden and costs
 - without a licence → no access to wholesale markets (risk management/optimisation for power plants?)
 - Key question: Will national licenses really be abolished?
 - How would a licence work together with e.g. an exchange licence?
 - need for an energy licence to get an exchange licence?

If introduced, how should a EU trading license be designed?

DOs

- EU “passport” function valid in all MS **replacing** national regimes (this is a MUST)
- Exclusive competence of home regulator to issue/withdraw the license
- Establish clear & transparent approval procedures
 - simple and harmonised process
 - fixed duration until approval (also right to appeal if negative)
- Requirements & checks should be clear proportionate, objective, pertinent
- Withdraw procedure must only be “last resort” measure

DONTs

- Duplication or “pancaking” of provisions and requirements (including reporting)
- Discretionary powers or different interpretation left to MS
- Requirements related to supply activities, of organisational / financial nature (e.g. capital requirements) or implying checking of (potential) economic success
- Fees based on size or turnover of company (i.e. should be a fixed fee)