

Position Statement

ERGEG Public Consultation on

Draft Comitology Guidelines on Fundamental Electricity Data Transparency

Berlin, 28.10.2010

The German Association of Energy and Water Industries (BDEW) represents the interests of its 1,800 members of the electricity, gas and water industries. In the energy sector, BDEW represents companies active in generation, trading, transmission, distribution and retail.

General Remarks:

We welcome the opportunity to comment on the ERGEG consultation regarding the draft Comitology Guidelines on fundamental electricity data transparency.

We are convinced that transparency on fundamental data is crucial to promote a level playing field by reducing information asymmetry and ensuring a more efficient functioning of wholesale market competition. Transparency in fundamental data should be one of the cornerstones of an energy-specific tailor-made regime to ensure transparency and market integrity for energy markets which DG Energy is expected to publish by the beginning of December. We believe that reliability of price formation will enhance as a consequence of an improved framework in fundamental transparency. Consumers will benefit from a better functioning of electricity markets and furthermore it will have a crucial role in promoting demand elasticity to price signals and fostering investments in demand side management and smart systems to control energy demand which is important when looking at the dramatic growth of intermittent energies.

The German experience in fundamental data transparency is based on voluntary and compulsive agreements and we consider it very positive. With the start of the transparency platform at the European Energy Exchange (EEX) on www.transparency.eex.com the needs for transparency of the Regulation (EC) No. 1228/2003 and the Congestion Management Guideline were implemented. This opinion is also confirmed by the German regulator BNetzA. This platform is the result of intensive process with the involvement of all relevant parties: TSOs, Generators, Traders, the EEX itself and the national associations VIK, VKU and BDEW. The EEX Transparency platform is well established and already meets most requirements that are set out in the draft Guideline. Furthermore, it receives in our view a positive response from energy sector participants. The birth of the transparency platform is playing a significant supportive role in increasing market liquidity (which in fact increased significantly over time) and we think it is an important benchmark in the EU context. We are convinced that the goal of a harmonized transparency regime of fundamental data in Europe can be achieved through an intensive use of the existing regional platforms.

General issues

1. Are there additional major problems or policy issues that should be addressed by the draft Comitology Guideline on Fundamental Electricity Data Transparency?

The initial impact assessment for the Draft Comitology Guidelines on Fundamental Electricity data only briefly discusses the given policy option 1. This option implies to continue with the current transparency regime on fundamental electricity data transparency relying on the Congestion Management Guidelines (CMG). Although this approach certainly didn't bring the wished solution to a full extent, we support ERGEG's view that as a result of the CMG, transparency standards throughout Europe have been improved remarkably. One of the most visible signs are the already existing and well established transparency platforms (e.g. Nord Pool and EEX transparency platform).

Therefore the Draft Comitology Guidelines on Fundamental Electricity data should be based on the already achieved standards.

Taking into account the already existing transparency requirements a third policy option could be that the transparency platforms already being in place (bottom-up approach) are harmonized. This approach would take advantage of already existing reporting structures and would avoid double work. Further this could be much more efficient and faster as any implementation of a new European platform can be.

We propose that this option is included in the Comitology Guidelines as an alternative to a new central European transparency platform exclusively run by ENTSO-E: the harmonisation of already existing transparency platforms.

These harmonized transparency platforms would stand beside a possible ENTSO-E platform which could be primarily responsible for TSO owned data (e.g. load). The obligation e.g. by power plant operators to provide transparency is fulfilled once they have sent data to one transparency platform. They don't have to send data to several transparency platforms.

The harmonised transparency platforms will not send data they received e.g. from power plant operators further to another platform. A coordination body such as ACER would have direct access to all established platforms.

Due to harmonization it is assured that the users of transparency platforms (e.g. traders, regulators, journalists, interested public) find the same standards all over Europe.

Advantages of this third policy option – which potentially save money and time – are

- Existing reporting structures can be further used.
- IT-Infrastructures of existing transparency platforms can be further used.
- Ongoing improvements of existing platforms are not interrupted.
- Responsibility for running transparency platforms lies with operators which have many years of experience in the different regions especially with the publication of power plant data.

A common internet portal should serve as a single point of access.

This third policy option should be codified as an alternative/supplementation to a new central European platform in the Draft Comitology Guidelines on Fundamental Electricity.

The present consultation focuses on the content of data which shall be provided but neglects to a certain extent the basis, meaning the reporting of data. Reporting structures which everyone can agree on and which take into consideration the different roles of TSOs, power plant operators, power exchanges and traders are crucial.

Furthermore the matter of compliance with transparency standards is not tackled in the consultation paper. Generally speaking we see the clear need that certain supervision is implemented.

Generally, we believe that all major technical issues related to a transparency framework in fundamental data have been dealt with. However the aggregation of data has to be clarified: If all data shall be released on a single platform, this might take more time to deliver. On the other hand, common definitions will ensure harmonisation and facilitate access, availability and use of data published across Europe. The practicability of the implementation has to be carefully considered, therefore interfaces and processes shall be carefully crafted and it may be better to built on platforms on the existing national or regional level, with the same transparency requirements and proceed with a modular and consistent approach. Therefore, it is better to keep platforms on national level or per area being linked to the common website. Existing platforms should be harmonized, so that these regional platforms could work as a European wide solution.

However, the draft guidelines are not very clear on the level of detail regarding publication. The publication of detailed (non-anonymous, non-aggregated) information about generation units may allow generators/traders to coordinate their market behaviour as the electricity markets are not perfect markets in the meaning of economic theory. This is why the DG Competition is generally not in favour of transparency based on non-aggregated data. BDEW suggest that ERGEG allays DG Competition's concerns. The DG competition's position likely depends on the level of detail of the publication. Aggregated or anonymous form is deemed less critical than block wise fully transparent data. Hence, it must be clear that all data published must be inoffensive to compliant laws.

The Guideline regards Art. 15 para. 4 and 5 of Regulation 714/2009. However they do not take into account the existence of Art. 15 para. 6 , which states that generation undertakings "shall keep at the disposal of the national regulatory authority, the national competition authority and the Commission, for five years all hourly data per plant". Bearing that in mind, we notice that ERGEG wants to make much more and in more detailed data (e. g. according to 4.3.2.8: "unit by unit generation output ... updated as changes occur, at least every 15 minutes") available to the public and to the relevant authorities. Furthermore we doubt that – apart from a few bigger ones – market participants can make use of the myriads of continuous data.

2. What timescale is needed to implement the Comitology Guideline on Fundamental Electricity Data Transparency seen from your organisation's point of view?

In our experience the definition of what should be reported and published is a time intensive topic. Nevertheless regulators already have given draft definitions of data to report. Thus dataset creation, the harmonising of reporting and the implementation of a central platform can easily exceed 24 months. Hence, we suggest allowing the use of existing definitions and platforms, like the EEX-platform. Any other approach needs a deep involvement of all stakeholders to have timely results. Regional examples can be the blueprint in technical, content and legal issues for a possible central platform.

3. Do you see a need for more firm specification of the role of each market participant in delivering transparency data to the TSO/information platform in the Comitology Guideline on Fundamental Electricity Data Transparency?

We see a need to define more specifically the role of DSOs and the data exchange of TSOs and DSOs. The data release on the use of balancing energy should be linked to the data release on generation.

With regard to responsibilities, there are several areas that can be identified: *owning, delivering, collecting, publishing and archiving/storing* data. Thus, within the framework for fundamental data transparency all these activities shall be clearly assigned to the responsible party and interfaces shall be defined precisely enough to avoid shortcomings and misinterpretations.

Data should be provided by the 'owner' on a best effort basis acknowledging the complexity of managing a large amount of data and several interfaces.

Finally we emphasize that the current legal situation based on the Congestion Management Guidelines has the design fault that TSOs are obliged to publish data from power plant operators which they do not own themselves. This construction is in its core one of the main obstacles for a smooth implementation of transparency standards.

To sum it up, it is important that regional specifications of markets are taken into account. The question is what extra value a new European platform can really offer. In general a new European platform should be complementary to the already existing regional solutions (e.g. transparency platforms by EEX and Nord Pool).

4. Do you see a need for more firm specification of the role of the TSO in collecting data in the Comitology Guideline on Fundamental Electricity Data Transparency?

We would like to point out that TSOs are active market participants on wholesale markets for electricity. They are to a certain extent competitors to utilities and municipalities. Obliging them to publish data of their competitors will automatically lead to conflicts of interests. This leads to the question whether this is in line with the principle of unbundling.

BDEW believes that bodies independent from the stakeholders, where such information is derived, are qualified to coordinate, support and publish transparency fundamental data. Depending on the regional legislation such bodies include power exchanges (PXs), which have the natural interest and competence to facilitate the accessibility of such information. PXs,

being independent from market participants and having no direct commercial interest in the markets they operate would not gain advantage from withholding information. In addition, their activities are internally supervised and a typical subject to oversight by sectoral or financial regulatory entities. Even in those cases where PXs are owned collectively by market participants, governance and regulatory provisions are in place to ensure that PXs operate in a way which does not favor individual participants.

Hence, we welcome the approach to use regional platforms. The existing regional or national platforms ensure the current level of transparency in national markets. Regional solutions should be operated in a parallel way and developed in order to ensure a level playing field.. Each regional approach should be the direct interface to the integrated central platform on EU-level in a modular way. The definitions during discussion around the central platform should be based on existing experiences. The communication to the central EU-platform could be organized by the regional platform, where in place.

However it must be clear, which platform (central or regional) is responsible to prove the data on plausibility and timely publication. As the expected reports for a central platform will come from all over Europe, we believe that this service can only be done in a efficient way by the regional platforms. This will ensure easy communication between reporting and receiving parties. Hence, a central platform can be used as a central access to the regional platforms. It is important that those who report to regional platforms should not be obliged to send the data again to any other platform.

5. Taking into account the interface between wider transparency requirements and the costs of data storage, do you consider storage of basic data for 3 years, to be made available for free, as sufficient?

Currently, in Germany reported data is stored for five years. In reality, it is not a problem of data storage but of data collection. Data should be free to public access.

6. Are the suggested market time units for information reporting and publication requirements adequate and compatible with wider transparency in a European perspective?

In general, the market time units are adequate. We agree that market time units used depend on local market design. However the definition of Market time unit (2.5.5) seems ambiguous. We suggest adapting it. The definition should result in: *“Market time unit is the longest period during which the market price is calculated. Market time unit can vary from 15 minutes to 1 hour depending on local market designs. When the market time units of two bidding areas are not the same and a data item has to be published for those two bidding areas, market time unit is the shortest possible common time period for the two bidding areas. However, if promptness causes a loss in reliability, we would prefer reliability of data”*.

Furthermore many other paragraphs ignore the idea of market time units. I.e. 4.3.2.8 when it states: “updated as changes occur, at least every 15 minutes”. The same applies for para.4.3.2.10/11 which demand generation data for each quarter of an hour in bidding areas with 1 hour market time unit. In other cases hourly data is required (e. g. 4.3.2.9).

Hence, clear timelines on when data should be published are needed. If data is published too late or different time lines are used, data won't be comparable/ usable and thus not as valuable as possible.

7. How do you see the costs and benefits of the proposed transparency framework for fundamental data in electricity? If possible, please provide qualitative and/or quantitative evidence on the costs and benefits or ideas about those.

General statement:

As for any initiative a proper cost-benefit analysis needs to be done. Particularly, it needs to be clear that any transparency initiative must serve the market needs and should not be done for its own sake. Experience from implementing the EEX-transparency initiative shows that there are significant initial but also ongoing costs involved.

Also, we would like to stress that it must be sure that any such initiative is not only approved by energy regulators but also by competition authorities; this is particularly relevant when discussing the publication of disaggregated data. The participating stakeholders must not be faced with any regulatory risk. These issues need to be solved before any implementation can start.

Transparency is clearly a driver for competition. BDEW is convinced that those measures will trigger a positive effect on market development by enhancing trust in wholesale markets and price formation. Expected benefits include reduction in information asymmetry, incentives to market entry and risk reduction, more efficient consumption, increased market integration, improved market integrity and better surveillance.

The operation of regional transparency platforms has shown that this involves a lot of work. Daily operations include constant communications with reporting companies as well as the users of the platforms (e.g. traders, analysts, interested public). A new European transparency platform will have to deal with the challenge to guarantee smooth running and high standards on a European scale (e.g. different necessity of information, different development status of markets, different languages, different timetables for auctioning); therefore we fully support to keep the already existing platforms and would like to stress that the implementations of infrastructures to realize transparency requirements will imply costs in IT infrastructures. Generally BDEW believes that the benefits related to the transparency framework will exceed expected costs. For some market participants, for instance smaller generators, the cost-benefit-analysis may be negative. Detailed data are not competitively relevant on European level but per bidding area. Currently, the benefit of a lot of details is quite low. This holds especially for para. 4.3.2.8, which is neither in line with time units ("as changes occur, at least every 15 minutes") nor with the general 100 MW threshold ("10 MW installed generation capacity") nor with aggregation ("unit by unit"), c. f. 4.3.2.6, 4.3.2.9. Transparency which does not allow for coordination of behaviour is clearly a driver for competition. However it is important to provide really important data which are close to the requirements of the market.

To sum up, BDEW believes that the use of already existing platforms and forms of publishing a key for a cost efficient implementation of transparency in Europe.

Load issues

8. Do you see a need for publication of load data linked to different timeframes or an update of load data linked to different timeframes than those suggested in the draft document?

In general, load and generation data should be reported in the same timeframe as generation. However, we have additional remarks with regard to the methodology for transparency (4.1.)

There is a clear need to involve DSOs in the design of such a system if a contribution of information is required. As described in the IIA the methodology should use transparency data from generation, large consumption units and renewable production in an appropriate manner. Especially in countries with a higher number of DSOs and a large amount of distributed generation it will be necessary to use statistical elements in the methodology. Forecasts of production from renewable sources should be part of a standardized system to avoid discrepancies. Especially in the definition of the harmonized method for load transparency (forecast and reporting) the assessment of benefits and costs has to be taken in consideration. There is a need that network operators (TSOs and DSOS) are compensated for these costs.

9. The draft document suggests that the information on unavailabilities of consumption units is disclosed in an anonymous manner identifying the bidding area, timeframes and unavailable load. Do you consider these pieces of information sufficient for the transparency needs of the internal wholesale electricity market or should also the name of the consumption unit be published?

We think that consumption and generation units should be subject to similar requirements. However, we emphasize that a clear definition of generation/consumption unit is needed. We believe that where consumption and generation units are placed in the same site, they should be considered separately in assessing whether or not the installed capacity is above the threshold of 100MW and thus subject to mandatory disclosure of fundamental data.

Transmission and interconnectors

10. Should the publication obligations regarding planned or actual outages of the transmission grid and interconnectors require the publication of the location and type of the asset (i.e. identify the part of transmission infrastructure that due to planned outage or a failure is facing a limitation in its transmission capacity) or should the information on transmission infrastructure equipment outage be non-identifiable?

Please justify your position why either identified information would be necessary or why only anonymous information on the transmission infrastructure outages should be published.

In our view the bidding area and the grid elements affected by the planned and actual outages that could restrict market activities should be clearly identifiable.

Indeed it may happen that the outage of a specific grid element implies constraints to generators, therefore the affected infrastructure should be identified. This is important to increase understanding of changes in fundamental on market outcomes.

To be able to make assumptions about prices in different markets it is important to have information on the issues that influence prices. This goes also for the availability of interconnection capacity especially under market coupling.

11. The requirement to disclose outages in the transmission infrastructure is proposed to be placed on such events where the impact on capacity is equal to or greater than 100 MW during at least one market time unit. Do you consider this absolute, MW based threshold appropriate, or should the threshold be in relation to e.g. the total generation or load of the bidding area, or alternatively, should the absolute threshold be complemented with a relative threshold? The relative threshold would mean, for example, that the publishing requirement would apply if a planned or actual outage of transmission infrastructure would equal to or be greater than 5 per cent (or any specified percentage value). This question on relative threshold stems from the fact that for some bidding areas the proposed 100 MW threshold may be relatively high. However, raising the general European threshold might in the majority of the European bidding areas lead to too low a threshold and a vast amount of information being reported.

We believe that a single threshold of 100MW for relevant units (i.e. generation, consumption and interconnection) is more appropriate; a dynamic threshold does not work and will only produce inconsistencies.

12. With regard to publishing requirements on congestion (in paragraph 22 (d) and (e)), what kind of information do you consider important to receive and how frequently? Please justify your position.

Standard agreements would be helpful in order to identify clear responsibilities of parties involved and also to clarify the implementation processes. Specific rules to regulate the relationship TSO-Generators (and Central platform-Generators/TSOs) will be necessary.

Furthermore, agreements between the regional platforms and the central platform are needed. Once again, we propose to use existing agreements at least as a blue print to enable a system of harmonized platforms in the shorter time.

13. Should unavailability of generation infrastructure relate to a given plant or a given unit? Please justify your position.

In our view, it is more relevant to relate unavailability to a given plant than to a unit because the unit capacity/unavailability may be below 100 MW while the plant capacity/unavailability concerning more than one unit can be considerably higher. We believe that the level of detail of unavailability of generation infrastructure should be related to the specific unit. However it is important to implement a clear rule for all market participants. And for the information required for units below 100 MW, aggregated information shall be made available by generation types.

However, we think that is much more important to identify clear rules and definitions in order to avoid misunderstanding and ensure a level playing field.

We also underline that the framework should include a provision for Urgent Market Messages (UMM), meaning a notification in real time of any relevant event that can produce effect in market outcomes within the fundamental data transparency framework (e.g. unplanned out-ages).

14. The draft document proposes that actual unit by unit output for units equal to or greater than 10 MW be updated real time as changes occur. Do you consider the 10 MW thresholds for generation units appropriate?

We believe that the obligation to update the output on a unit by unit basis must be limited to units at least equal or greater than 100 MW.

In our view *marginal* costs to include all units greater than 10MW – instead of 100MW – would overrun the *marginal* expected benefits. Since impacts of smallest power plants on market outcomes are likely to be very limited, the effort required would not be appropriate.

If grid operators publish aggregated data from smaller generation units, the 10 MW boundary could be easily raised to a 50MW threshold.

15. The requirement to disclose hourly information on actual aggregated generation output is now related to generation type. Should this threshold be linked to fuel requirements or generation technology?

In general, issues that limit plant flexibility should be noted. Therefore the threshold should be linked to the fuel because this is more relevant for competition. The technology should be taken into account only if it is of additional relevance for the market (e.g. if CHP has relevant influence as it limits the flexibility of a plant). In any case the generation type is a static information which should be published as a general document (“reporting plant list”).

In annex 1 (generation types) a distinction is being made between different generation types. Under ‘renewable energy plants’ only wind and solar are listed so far. We recommend that other renewable generation sources should be added as soon as they cross 1% feed-in of generation per year particularly biomass/-gas.

Balancing and wholesale data

16. The transparency requirements on balancing have been widened compared to the Transparency Reports prepared within the framework of the Electricity Regional Initiatives. Is the proposed list of data items sufficient - also taking into account the evolution towards cross-border balancing markets?

BDEW believes that the list of data proposed is comprehensive of all data related to balancing actions.

17. The transparency requirements on wholesale market data have been deliberately left outside the draft Guidelines as they will most likely be addressed by other legal measures that are currently under preparation. Should some basic wholesale data, i.e. information on aggregate supply and demand curves, prices and volumes for each standard traded product and for each market timeframe (forward, day-ahead, intraday) as well as prices and volumes of the OTC market still be part of the Comitology Guideline on Fundamental Electricity Data Transparency?

Trade transparency refers to trade information on executed transaction in respect of power, CO₂ and gas products on a real/near real-time basis in standardized products on regulated markets, regulated multilateral trading platforms (MTFs) and OTC-markets (broker platforms).

This would involve parties that are different from TSOs, Generators and Consumers. In particular we believe that disclosure of wholesale market data to the public should be made primarily by the operators of regulated markets, MTFs and broker platforms on an anonymous and aggregated basis. The implementation of a trade transparency framework might involve the establishment of a trade repository be different from the central platform for fundamental transparency. If additional data should be published on this platform, the publication should use already existing data. For market participants there should not be any additional burdens.

Therefore we support that rules in this regards are defined separately, although in connection and in line with the framework on Fundamental Electricity Data Transparency.

Next to the “Fundamental electricity data transparency guidelines” the EU Commission (DG Energy as well as DG Market) is working on a number of other initiatives which are supposed to further increase transparency and market integrity of EU energy markets. Although these initiatives focus more on transparency on trades and the wholesale market, there is a big chance of overlap between the different initiatives¹. Therefore it is of crucial importance that there is close coordination between, DG Energy and DG Market and DG Competition as well as the respective groups of regulators, to make sure that the energy sector is not caught in a number of different and overlapping, unnecessarily burdensome transparency initiatives.

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¹ e.g.

- The revision of MAD, MiFID, CAD & CRD by DG market
- The market integrity scheme from DG Energy
- National transparency initiatives