

Opinion and comments by Polish Association of Energy Traders to the ERGEG Best Practise Propositions for Public Consultation

Introduction

1. On 1st March 2006, the European Regulators Group for Electricity and Gas (ERGEG) launched a public consultation on three Best Practice Propositions:

- [1] Transparency of Prices. An ERGEG Best Practice Proposition for Public Consultation. Ref: E05-CFG-03-04, Bruxelles, 24 February 2006
- [2] Supplier Switching Process. An ERGEG Best Practice Proposition for Public Consultation. Ref: E05-CFG-03-05, Bruxelles, 24 February 2006
- [3] Customer Protection. An ERGEG Best Practice Proposition for Public Consultation. Ref: E05-CFG-03-06, Bruxelles, 24 February 2006

2. We have sent information about these documents to our 26 members - traders and suppliers in Poland. Polish Association of Energy Traders is a voluntary, self-governing and apolitical non-profitable association created at the end of 2003. According to the Statute, the main tasks of our association are as follows: to undertake activities in support of the development of the competitive Polish energy market; to promote the principles of trading in energy and fuel and their standards; to represent the interests of the energy and fuel trading sector to the relevant authorities and other associations and entities. Polish Association of Energy Traders has been taking an active part in shaping the legal framework of the Polish energy market. We have presented our opinions concerning all relevant legal acts presented by the government, as well as prepared our own solutions aimed at the approximation of the Polish energy market to the international standards of free trade in energy.

3. Poland's accession to EU resulted in change of the conditions for third party access to electric power grids. Under the 2003 Ruling, as of 1st January 2004 all customers purchasing annually over 1GWh of electric energy for own needs were entitled to grid access. At that time this regulation affected a group of some 6.6 thousand customers. Under EU guidelines, after 1st July 2004, the option of free choice of electric energy supplier was gained, theoretically, to a very large group of customers (some 1.8 million) – meaning all but household customers. But (according to TOE data), only about 50 customers (up to the end of 2004) in practice exercised their TPA rights.

4. The current state of electric energy market in Poland is unsatisfactory, also from the perspective of trading companies and suppliers, as evident from the following:

- Absence of stable legislative environment and unpredictable directions of legislative changes;
- Lack of absolute clarity of binding legal regulations – application of different interpretations to one provision;
- Lack of equal access for electric energy market participants in Poland;
- Barriers to implementation of the TPA principle.

5. This document presents our opinion and comments to the ERGEG Best Practise Propositions for Public Consultation [1], [2] and [3] which our members had sent to the association office before the 27th of April, 2006.

Opinion and comments

6. ERGEG Best Practice Propositions [1], [2] and [3] are very interesting documents for the Polish electricity market and for our Association. We are of the opinion that these documents can be a starting point in making the next step in opening the electricity market in the EU and specifically in Poland.

7. Best Practice Propositions [1], [2] and [3] are concentrating on the retail electricity market and cover household and small enterprises. We think that the information and best practices should be applied also to other branches of the electricity market, namely large and middle-size customers. Accordingly, we view positively the ideas included in these documents about household and small enterprises, but we suggest not limiting their scope to this segment of the electricity market only.

8. It is noteworthy that the uniform structure of all three documents enables a reader to analyze them as a coherent and clear set of recommendations and facilitates their implementation in the future. We agree with all the main recommendations and with the manner in which they have been formulated. Below, you will find some proposals for modifications and additions which, in our opinion, would further enhance the quality of these documents. We also express certain doubts, which have arisen during studying and discussing the ERGEG Propositions.

9. ERGEG Best Practice Propositions [1] and [2] stipulate that during the switching process the customer should have easy access to full information on the prices on the whole market. However, in our opinion, the essence of the liberalized market is negotiating prices in the environment which guarantees confidence of data and terms of contracts. Obviously, as far as tariffs are concerned, transparency should prevail, but during negotiations and setting prices of providing services the final price offers should not be generally available. After all, the final price should be the outcome of the whole process of negotiations.

10. In the ERGEG Best Practice Proposition [2] we propose to add to the illustration on Page 13 preferred timeframe for every action. Our experience of

operating in Poland shows that there can be big differences in this regard, which makes it difficult for a customer to change the supplier.

11. Unfortunately, in Poland the new grid codes reject the DSO load profile. DSOs propose installation of hourly meters for every customer, including household customers. We do not agree with this completely. Therefore, we propose to elaborate further point 16 of the ERGEG Best Practice Proposition [2], bringing attention to the fact of introducing load profile in many countries.

12. Around 300 companies are licensed to trade in energy in Poland, but only around 30 can offer energy for sale of the end-users. Taking into account this fact, as well as the Polish legal system, the proposal to have the regulating authority distribute the data/list of alternative suppliers seems controversial. But if such a list is to be provided (which, by and large, would be beneficial for the market and consumers), it would be useful to clarify which types of data should be included there. For example, in the Polish context, providing information on all 300 companies would not be a good solution.

13. In the ERGEG Best Practice Proposition [3] we propose to unambiguously define the term 'service provider', which is not entirely clear in the present edition of the text. The term is used frequently, and from the appendix on Definitions it is clear that it is not the 'supplier'. Can it be a DSO, or an outside entity? What are the tasks of a service provider?

14. In all documents, some definitions are provided in the main body of the texts (part 'Definition and significance of...'), not in the appendixes. We propose to do the same with some other terms crucial for upholding good practices on the market. We would include here: supplier of last resort, incumbent supplier, default supplier, alternative supplier, service provider.

15. On behalf of Polish Association of Energy Traders we declare our readiness to take an active part in further proceedings on these proposals, including assessing subsequent ERGEG Propositions and discussing them among Polish traders and suppliers. Once again, we express gratitude for making it possible for the Association to express its opinion and remarks on the ERGEG Best Practices Propositions.

Polish Association of Energy Traders, Warsaw, 28th April, 2006