

# **Vattenfall Europe Transmission GmbH Response to ERGEG/CEER Consultation Paper on Implementing the Third Energy Package**

23<sup>rd</sup> of December 2008

## **1. Introduction**

VE Transmission welcomes the opportunity to give its view on the ERGEG/CEER Consultation paper 'Implementing the Third Energy Package'. General principles described in the overview of the consultation paper constitute a good basis for discussion. Subsequent to this general discussion the details treated in the appendixes of the consultation paper should be clarified consistent with the broadly accepted general principles. Notwithstanding these necessary discussions and clarifications on the part of VE Transmission is both a need for and a wish to work as soon as possible on the "as if" basis in order to efficiently tackle pan-European grid and market issues.

## **2. Preconditions and General Principles for Implementation**

For us the following principles are of key importance and should be reflected in both any voluntary arrangements during the interim period and the regulatory arrangements after the interim period:

- The voluntary arrangements during the interim period should be consistent with the legal regulatory situation that will be established once the 3<sup>rd</sup> energy package is formally approved at EU level.
- With respect to the wording and the intention of the 3<sup>rd</sup> energy package the role of stakeholders and the relationship between stakeholders in particular European Commission, Member States, ERGEG/ACER, National Regulatory Authorities, and the newly founded association ENTSO-E representing TSOs should be clearly defined and broadly accepted already in the voluntary arrangements in order to reach a constructive, fruitful and effective cooperation between stakeholders right from the start. The responsibilities of stakeholders should be defined according to the European-wide accepted principle of separation of powers, especially if network codes become legally binding.
- When establishing working structure for interim and final arrangements the already existing working structures, e.g. the Regional Initiatives should be considered in order to avoid duplication. Working structure and processes should ensure efficient working taking into account the interdependencies between all stages of the arrangements. A high efficiency could be reached if the legal status of a network code or key document is decided already based on the framework guidelines, i.e. before drafting of the related document is initiated. Where necessary, the processes should be adapted according to the experiences gained. Although VE Transmission expects that the first integrated set of European network codes will deliver substantial progress it is unlikely to represent the fi-

nal solution. Therefore a change process covering all relevant stages of the arrangements is required in the end.

- The voluntary arrangements should comprise at all main stages open consultations with stakeholders and, where necessary, special consultations with experts on specific issues. Because the envisaged legal status of future subjects of consultation, e.g. network codes, in the beginning of any voluntary arrangement the stakeholder should agree on precise and comprehensive rules for consultations derived from the actual guidelines on consultation practices taking into account the experiences gained in the past and new conditions resulting from the 3rd energy package. However, consultations, in principle, should be open for all stakeholders who will be affected by the results of the respective stage of the arrangements. Because of TSOs' key role and responsibility in the process of developing and subsequent improving of network codes and other key documents VE Transmission sees the necessity that TSOs are involved in consultations at all main stages of the arrangements, namely at least the consultation on road map and priority list, framework guidelines, network codes, and other key documents. Knowing from the past that consultations are demanding for both those carrying out and those participating in consultations the consultations should be complementary to one another.
- The processes of any voluntary arrangement during the interim period should start only if all relevant stakeholders or the associations representing them are able to fulfil their role as foreseen in the arrangement completely. This will enable stakeholders to participate in the processes on an equal basis and to cooperate with each other to the necessary extent. By founding of ENTSO-E and implementing the working structure (incl. procedures for involving stakeholders) ahead of any obligation to do so the European TSOs will be able soon to work on an "as if" basis during the interim period.
- One of the first steps after implementation of working structures and processes should be the drafting and consultation of the road map including a concrete time-schedule for the implementation of detailed measures to complete also the set of relevant technical areas. In connection with this road map or, if appropriate, during coordination of subsequent detailed work plans it can be consulted how the technical areas which are usually close connected to one another should be covered by a reasonable number of network codes and key documents.
- The development of the European regulatory framework has to guarantee that the TSO are able to fulfil all the obligations given by the EC. The regulatory arrangement, namely the framework guidelines and the resulting network codes, must provide the TSOs in their role as market facilitators and operators of transmission systems enough room for flexibility to use their special technical and economical knowledge for innovative solutions with the adequate tools for the market and the customers.