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Per email: Regional_Initatives_Progress@ergeg.org

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EREG public consultation on “Safeguarding the move to a single EU energy market - EREG Regional Initiatives Progress Report - November 2009”

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Dear Ladies and Gentlemen, dear Mrs Geitona,

EnBW welcomes the opportunity to comment on EREG’s November 2009 Regional Initiatives Progress Report “Safeguarding the move to a single EU energy market”.

Generally, we consider the Regional Initiatives both in Electricity and Gas as a well chosen and important approach towards an internal energy market. Since the launch of the Initiatives we have been able to observe some very good progress in the different regions. Recognising that there is still a long way to go, we believe that this progress should not be underestimated: in order to reach the goal of an internal energy market in the European Union, fundamental changes and adjustments need to be made to the entire system, which is after all a physical system with strict technical and security requirements. The Progress Report provides a good basis for the evaluation of the extent to which the development towards an internal energy market has been progressed and which issues still need to be addressed.

Additionally, we welcome the Third Energy Package’s strengthening of the regional approach and of the necessary co-operations – the GRIs and ERIs are important tools to gather all relevant stakeholders on the same level in a bottom-up fashion. We would like to emphasize that the Regional Initiatives allow market participants to be an active part of the market development in addition to the formal policy making process. Against this background we welcome the opportunity to provide our input to the current Progress Report and its specific questions.

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Gas Regional Initiatives (GRI)

General

A.1. From your point of view, what is the main achievement of the Gas Regional Initiative process?

In our view the Gas Regional Initiatives are an important approach to integrate national markets on a regional scale and to create a better common understanding of the nature of problems (legal and regulatory, technical, process-related) to be resolved in order to foster cross-border trade. The regional development allows for differences in pace between the three regions corresponding to the state of their respective market development always with a view to reach a common market for harmonized products (capacity and commodity) and processes. We consider the fact that Member States are part of just one region, as is the case for Germany, as a very efficient basis ensuring that stakeholders can concentrate on one region only. At the same time inter-regional coordination is essential for the success of the Regional Initiatives to work towards the goal of an internal gas market in the European Union.

We would like to emphasize that GRIs are a good basis for the future development of framework guidelines, annexes to existing guidelines and subsequently to the network codes. The work done and results achieved in some areas should quickly be incorporated in the changing regulatory framework. We see GRIs as the starting point for the implementation of network codes following the adoption of Framework Guidelines. Topics such as CAM, CMP, balancing mechanisms and (cross-border) tariffs can only be dealt with sensibly on a regional level as a step towards a common European gas market. Only if stakeholders cooperate on a regional level can a sufficient understanding be reached as to why certain national legislative measures need to be adapted in order to optimize regional welfare, which again fosters regional market integration. A further step next to intra-regional cooperation is the coordination of best practice models in the GRIs to promote the overall development towards an internal market for gas.

Generally, the focus of all activities within the GRIs should be on projects that are essentially market-driven in order to provide the highest benefits for these markets.

Investment in new infrastructure

A.2. Do you consider that Gas Regional Initiative (GRI) projects have effectively contributed to cross-border investment processes? What kind of improvements would you expect?

Despite the engagement for a homogeneous approach in investment planning, such as the implementation of the GGPOS, there is still a lack of coordination among TSOs as regards the creation of additional cross-border capacities.

A number of recently started open seasons with tight time frames and diverging time schedules as well as different capacity allocation mechanisms have not satisfied the

needs of potential shippers. Some of those procedures have been delayed because of ongoing consultations with NRA's.

Shippers involved in adjacent infrastructure projects with different project time frames, however, require mechanisms which incorporate their capacity needs. Further, due to the regularly asymmetric timing of commitments (early binding capacity bookings vs. late final investment decisions), it also needs to be recognized that shippers bear most of the risk. Hence open seasons should principally take place more frequently or another mechanism should be offered by TSOs.

Experience has shown that varying interpretations of the GGPOS trigger planning insecurity which leads to situations where shippers are prevented from entering into binding long-term commitments.

In addition, TSOs in adjacent countries are confronted with various regulatory regimes, which lead to different investment incentives. Therefore, NRAs should harmonize regulatory frameworks in order to realize consistent long-term revenue expectations and a positive investment climate. Harmonized cost allocations, tariff settings, rates of return, regulatory periods as well as harmonized procedures to grant regulatory TPA exemptions and incentives to jointly manage cross-border points are only some of the issues relevant in that respect.

Capacity allocation and congestion management

A.3. What lessons do you draw from GRI projects in the area of access to cross-border capacity? Do the current GRI projects on capacity allocation harmonization meet your expectations?

A.4. Would there be real benefits if, at this stage, the GRI tried to seek better coordination at a cross-regional level? How do you value the experience acquired with the capacity projects in the regions? What type of projects should be developed in the future?

We are currently seeing framework guidelines and subsequently network codes being developed for capacity allocation mechanisms (CAM) and congestion management procedures (CMP). Ideally, the guidelines should set out a target model. We also see that the GRIs show a different degree of market development with GRI NW being the one with the most liquid hubs and advanced entry-exit-systems. Consequently, we expect GRI NW playing a major role in implementing CAM and CMP fast and efficiently. We therefore welcome any regional approach fostering this implementation, which includes all stakeholders. Implementing new CAM and CMP can no longer focus on single interconnection points but must take all points within a region into account. GRIs can also provide tangible solutions for harmonized capacity products and allocation procedures together with effective CMP. Other topics such as tariffs and balancing relate thereto and must be tackled on a regional level accordingly.

Transparency

A.5. What would you expect to be the contribution of the GRI to transparency going forward? Do the current projects in the three regions meet your expectations?

A.6. How could this work help to ensure that the requirements of the 3rd Package are met in a consistent way across the three gas regions?

We agree with the assessment that transparency regarding availability, use and access to capacity is a necessary condition to create a level playing field for market participants in the European market. We see the GRIs as a catalyser for fast implementation of transparency of fundamental infrastructure data. Transparency of infrastructure and its use is a prerequisite of a well-functioning and liquid market. The new transparency annex to Regulation 1775/2005 currently developed by ERGEG in anticipation of Regulation 715/2009 shall together with laudable examples of TSOs allow to meet the market's need for reliable, standardized and relevant fundamental infrastructure data.

Interoperability and Hub development

A.7. What further actions would you expect from the GRI in this area in order to contribute to interoperability and hub development?

A.8. From your experience with the Regional Initiatives, what are the main obstacles to reach harmonization regarding interoperability at a regional level?

Hub development on the basis of market-based solutions is essential for creating liquid trading and foster competition in the gas sector. As for the GRI NW, we see examples of well-developing hubs which, however, are not the result of the GRIs as such. The challenge is to harmonise products and procedures that are attached to trading hubs such as balancing regimes. Although we are on a good way to market integration in some parts of Europe, there is still a lack of harmonized balancing regimes. We consider this an issue which should definitely be tackled next by the GRIs, especially because all stakeholders should be able to contribute greatly to a regional solution. Of course, as described before, other issues such as transparency and effective and efficient CAM and CMP play also an important role when working on a consistent approach towards interoperability and hub development. From a process-related point of view it is crucial to intensively involve all interested stakeholders as early as early as possible in order to ensure that any solutions found are market-driven.

Security of Supply

A.9. Should security of supply be more clearly considered as a main driver within the GRI? Should specific actions be developed in this area?

Given the fact that some Member States on their own may have difficulties in ensuring the specific infrastructure and supply standards set up by the proposal for a new Regulation concerning measures to safeguard security of gas supply, the issue of gas supply security should indeed be a main driver on a regional level as well.

EnBW believes, however, that possible gas supply disruptions should primarily be dealt with on a national level according to the principle of subsidiarity. Only if this is not sufficient to mitigate disruption, should effective measures to solve such disruption be coordinated on a regional level. And only if the measures taken at a national and regional level have failed should appropriate measures be taken at a European level.

With respect to specific actions to be developed in order to safeguard security of gas supply, the proposal in the draft Regulation just mentioned to extend the calculation of the N-1 standard (infrastructure standard) to the appropriate level, where necessary, may serve as an example. EnBW believes that GRIs should take appropriate measures to coordinate the cooperation on a regional level to fulfil the infrastructure and supply standards on the regional level.

A.10. How can the regions of the GRI take into account and develop measures contained in the European Commission's proposal for a Regulation concerning measures to safeguard security of gas supply?

In addition to setting up the mandatory national standards, the Regional Initiatives should set up infrastructure and supply standards as indicated in Arts 7 and 8 of the Gas Regulation concerning measures to safeguard security of supply.

Electricity Regional Initiatives (ERI)

General

As a general point, we would like to emphasize that we count on the cooperation between regulators and TSOs within the Regional Initiatives to ensure that the aim of an internal energy market is incorporated into all projects. For example, any auction platform developed in one region should in principle be designed in such a way that it is easy to extend or incorporate into other regions. We also believe that the bottom-up driven process has proven to be a good measure to achieve quick tangible results while incorporating all stakeholders. Although sometimes progress could possibly be made faster we doubt that a blunt top-down approach would be in the interest of the market participants. We therefore encourage regulators to work closely together and carefully monitor the projects currently under way. It must be ensured that the experiences made in the different regions are actually shared across all projects. On a broader level, we believe that the definition of a roadmap would be helpful in order to coordinate the different regional projects at an interregional level – this relates to the ERIs as it does to the GRIs. Therefore, we urge the national regulators in the respective regions to also cooperate intensively in order to develop a common view. This should also encourage all parties involved within the different projects to develop each project while having the others in mind. This implies joint knowledge about visions, strategies and processes. The roadmap should classify the different Regional Initiatives, assess their importance and probability of success as well as the compatibility with other Regional Initiatives. However, this should be pursued in such a way that the dynamics of ongoing projects are not constrained.

B.1. From your point of view, what is the main achievement of the Electricity Regional Initiatives process?

In our view the Electricity Regional Initiatives play an important role in developing the electricity markets further and particularly in closing the gap between markets towards an integrated European electricity market. Certainly, there has been more progress in some regions than in others while the same is also true for specific topics. Nevertheless, we are convinced that the ERIs are not only a pragmatic approach but also an appropriate approach to involve all relevant stakeholder into the process. Looking at the central-west region (CWE), we can observe significant progress along the different timeframes. For long-term capacity allocation the CASC-CWE has been established and is in operation with harmonized auction rules. Following the memorandum of understanding, TSOs and PXs have made substantial progress on implementing day-ahead market-coupling; a starting date is foreseeable albeit with some delay compared to the original date. There are also initiatives to start cross-border intra-day continuous trading. There have also been auction offices established in other regions (e.g. CEE). Further, there are first initiatives to integrate the regions (inter-regional coupling). This will be a main upcoming challenge which should also be closely dealt with in the ERIs.

Capacity calculation

B.2. What should be the framework conditions for having flow-based capacity calculation based on a common grid model implemented in practice?

We are not convinced that capacity calculation models that are based on different principles will be a good approach to ensure a converging process between the different regions. Rather, a common methodology seems to be a more efficient approach which also requires a closer cooperation of TSOs: By taking into account all available capacities on a regional level, more capacity could be offered without endangering the security of supply. Particularly regarding a successful implementation of flow-based capacity calculation it is essential that TSOs engage in close cooperation as it requires an intensive information exchange between them. Also, the transparency aspect seems to be an important one in order to allow market players to understand the results and to efficiently be active in the market.

B.3. What do you believe should be the short- and long-term goals for a regional approach to capacity allocation?

Following the outcome of the PCG, the development of a common grid model should be the goal. This requires particularly a close cooperation of the TSOs, also to commonly assess the capacity available for the market. In our view, the approach taken in the CWE regions seems to be a pragmatic approach, starting with an enhanced NTC-based model while performing flow-based calculations in parallel in order to gain the necessary experiences. The goal should be maximising the available capacity also resulting in maximum welfare gains.

B.4. Do you consider transparency requirements for capacity calculation sufficient? If not, what do you need additional data/information for?

In our view, transparency regarding capacity calculation could well be improved, particularly as regards the need to obtain more information on how the results have been achieved.

Capacity allocation

B.5. What practical steps should be taken at an interregional level to ensure an efficient and harmonized approach to capacity allocation in the 1) long-term; 2) day-ahead; and 3) intraday markets?

We suggest using the target models from the PCG process as a basis to set up common principles on how to proceed with the proposed roadmaps on the different timeframes. The focus should also be on determining the important product features, including duration of the products, firmness of the capacity rights and possibility for secondary nomination. We believe that maximum possible capacity should be offered to the market so that market parties are able to continuously access interconnection capacities over multiple timeframes (multiyear/yearly) to respond to any change of market information: out of risk management provisions, generation, trade and sales units have a strong need to hedge their positions. Also, new market entrants - whether on the sales or on the generation side - need liquid wholesale forward and futures markets to hedge their long-term positions as these markets provide relevant price signals for all market participants and have direct influence on most of the production and sales contracts. Allocation of long-term capacity also avoids higher risk due to volatility in day-ahead markets.

Overall, firmness of capacity rights is an important issue for the market participants as otherwise they would have to bear unmanageable risks. Here, it seems important to have a clear definition/understanding across all markets for force majeure, as TSOs cannot guarantee firmness of capacity in this case. In all other cases compensation for any curtailment of capacity could be at full market spread (while TSOs should be allowed to refinance this risk). Certainly, robust and liquid day-ahead markets are also vital as they serve as underlying for the forward markets. Therefore, efforts need to be made especially regarding the aspect of harmonization of the applied methodology. Regarding intra-day, we think that there is a need for a fast implementation of harmonized cross-border continuous trading possibilities. With the ever growing portion of intermittent production (mainly wind generation), intra-day markets will become increasingly important. A quick implementation seems feasible with existing intra-day trading platforms being hooked up to the capacity matrix of the TSOs.

B.6. What are the future challenges in ensuring that allocation mechanisms across all timeframes can work together?

There needs to be a clear view on what the target model should be. Again, the PCG process provided some good basis for this. Roadmaps for a harmonized implementa-

tion should be developed (or developed further based on the PCG outcome). The challenge will certainly be on the aspect of inter-regional integration which in particular requires close cooperation of all relevant stakeholders with the strong support and commitment of politics. For example, investments between two regions will require even closer cooperation between TSO and regulators, as it may involve two or more ERIs.

B.7. Do you consider that achievements by different regions towards a harmonized set of rules at regional level for long-term capacity allocation merit further work or should there be more emphasis put on inter-regional harmonization (considering that this may impede short-term regional progress)?

We believe that ongoing processes should continue. Again we see good progress in the CWE regions regarding long-term capacity allocation. Certainly there needs to be further coordination to ensure that the developments within the regions are compatible with the inter-regional target. Thus, emphasis should be on the convergence of the processes.

B.8. Do you think that extending the geographical scope of existing auction offices is advisable/feasible?

As there are already several auction offices in place, it seems pragmatic to use them whenever possible, rather than setting up new infrastructures (an example being CASC-CWE also managing cross-border long-term products for CSE borders). This would also strengthen that there is a harmonized approach. As a general point, we would like to emphasize that the issue of governance needs to be addressed.

B.9. Do you agree with price market coupling as the target model for day-ahead capacity allocation?

Yes. The outcome of the PCG process regarding day-ahead market coupling appears to have led all relevant stakeholders to agree that price coupling should be the target model for day-ahead capacity allocation. Further work should be undertaken to set up a roadmap on how to integrate the different regions on a day-ahead basis; again the PCG provided some first ideas which may serve as a basis.

Balancing

B.10. How important do you consider further development of cross-border balancing solutions? Which model do you consider appropriate and efficient?

With the fast growing share of renewables (and particularly the share of intermittent sources, the need for cross-border balancing will also rise. In this context it also seems to be important to implement a cross-border intra-day trading platform quickly. Generally, we think that before harmonizing formats of balancing bids it is important to harmonize the market design of balancing markets within the regions (harmonization will be required e.g. on technical characteristics etc). Exchange of balancing energy is in fact an issue relevant to the different schemes and products in

Europe. In Germany, all the reserve energy (primary as well as secondary) and minute reserve is bought by the TSO through a central market platform. There could be further harmonization regarding exchange of balancing energy, while it is important to keep system security in mind. Generally, cross-border capacity should not be reserved for balancing purposes. The focus should first of all be on the maximization of available capacity for the market with an emphasis on long-term capacities.

Transparency

B.11. Do you share ERGEG's view that significant progress in transparency has been reached thanks to the ERGEG Regional Initiatives? What steps should be taken in order to enhance transparency further?

The non-discriminatory availability of market relevant information is an important issue for a functioning market. We therefore support clear and harmonized rules in the different ERIs while the ultimate goal must be to have harmonized and binding rules across all the regions in the European Union. Currently, we still see significant differences across the ERIs both in terms of speed and in terms of content as regards the implementation of a common transparency standard. In this respect, we refer to the so-called EEX transparency initiative which was relaunched in October 2009. This project is a joint effort of all relevant stakeholders (regulators, TSOs, generators, traders) to implement the provisions of the Nordic transparency report. In our view this could well serve as a model for the implementation of the other regional transparency reports.

EnBW hopes that its comments contribute to answer ERGEG's open questions in the context of its November 2009 Regional Initiatives Progress Report "Safeguarding the move to a single EU energy market" and we remain at your disposal should you have any further enquiries.

Kind regards.

Yours sincerely

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