



UCTE Position Paper

on

EU proposal for a directive of the European Commission to the European Parliament concerning measures to safeguard security of electricity supply and infrastructure investments.

(Statements by UCTE)

“The Liberalization of energy markets still remains a key objective of the EU policy. A competitive electricity market does not necessarily result in a reduction of the security of supply as long as the following prerequisites are put in place and observed at EU level:

- *EU Member States, in dealing with security of supply obligations, should assign binding tasks and consequently responsibilities for system security, system adequacy and reliability to be observed by All market actors. The liberalized electricity market must not only be driven by the commercial interests of the Market Actors who could not or would not pursue security of supply obligations in an adequate extent and under the same conditions.*
- *The task to set up standards to guarantee the reliability and the security of the electricity networks should be clearly assigned to TSOs. Performance standards of the electricity networks, in the meaning of maintenance, planning and development, should be set up in cooperation with them.*
- *The development of a structured cooperation among TSOs, when dealing with technical and operational security of the electricity networks and infrastructure development on the network and interconnectors, should be based on Multilateral Cooperation, through the creation of a Group of TSOs and Via multilateral or bilateral agreements among them.”*

UCTE welcomes the proposal of the EU Commission to adopt a directive to guarantee the security of electricity supply and infrastructure investments in order to provide Member States and Market Actors with incentives and mechanisms to ensure the reliability of the electricity system.

UCTE reaffirms its commitment to support the EU Commission in dealing with security of supply obligations related to system security of the electricity transmission networks and interconnections and to operational and safety standards for the reliability of the electricity system, as it already does by developing an Operational Handbook.

As a consequence, **UCTE and its TSOs members advocate** the development of a more structured dialogue and consultation between EU Commission and TSOs when dealing with Security of Supply in the meaning of both technical security and reliability, adequacy and system development.

Therefore **UCTE calls the EU Commission** to make some progress with respect to the voluntary cooperation and coordination among TSOs and to express its intention to give European enforcement to cooperation among TSOs by creating a Group of TSOs, acting also on a regional basis, aimed at favouring coordination and cooperation among them regardless of their membership status (EU non EU).

The current Proposal of EU Directive calls UCTE to the following Observations and Recommendations by UCTE:

Article 3 “General Provisions”

- **Not only EU Member States but also Non EU Member States should commit themselves to develop and adopt Policies, including tasks and responsibility for Market Actors with respect of Security of supply.**

Security of supply, both in terms of system security and reliability and system adequacy is not only dependent on EU Member States Policies as far as it depends on a bulk interconnected electricity system involving also non EU Member States.

UCTE welcomes the intention of the EU Commission to provide for a set of measures to safeguard overall system security with respect to *efficient operation* of the transmission grids and interconnectors, *adequacy of transmission and interconnection capacity and adequacy of generation and supply*’.

Those intentions should be made effective by providing that:

- **Such conditions and incentives to ensure security of electricity supply should be set in a way that roles, tasks and responsibilities of EU Member States and Non EU Member States, EU Market actors and Regulatory Authorities are clearly envisaged in a common European framework as an undisputable reference of the way how the key policy of “Security of Electricity Supply” has to be realized.**

UCTE highlights that security of electricity supply is a very complex issues involving different notions and options and stretching over varying time scales. Security of electricity supply comprises the quality aspect and the short-term balance of supply and demand. In the medium/long term it relates more to maintenance and network investments whereas in the long term it is rather referred to maintaining the balance between supply and demand in order to have the reliability of the network. In a very long-term view it has to account for the effects of renewable energies – by nature intermittent and not foreseeable - onto the transmission grids.

Due to the different time horizons, both in terms of network security and system adequacy, UCTE considers that the EU Commission Proposal is more strictly focused on the medium to long term time horizon. The obligation to set “performance standards for TSOs and DSOs in terms of occurrence of interruptions of final customers as a result of transmission network incidents” seems more related to quality standards of transmission services that does not necessarily mean achieving “quality of supply in the medium and long term” for final customers.

- **Once defined what is the time horizon of security of supply, clear rules are needed on defining who are the Actors involved in the chain of “Mission/tasks/responsibilities/liabilities” for “Security of Supply” and what are the instruments to fulfill this tasks.**

UCTE highlights that “tasks” create, as a consequence “responsibility and in many cases liability”. The chain “*Mission/tasks/responsibilities/liabilities*” is changing considerably due to the introduction of the liberalized electricity market.

Taking into account the key policy of “Security of Electricity Supply” and considering the downstream side of the “chain” (“responsibility and liability”), UCTE strongly stresses the importance of clearness in the EU legislative proposal both with respect to responsibilities and in terms of instruments.

- **Reliability and Security of the electricity system does no longer depend solely on the TSOs as the market is developing and enlarging.**

From a general point of view security of electricity supply is already a “public service obligation” as foreseen in the EU Electricity Directive n. 54/03 that in art. 3.2 mentions security meaning both security of electricity supply and technical security.

Even if “Security of Electricity supply” is not under the responsibility of a Pan European Institution, it is still a clear responsibility of Member states which may assign it to the different market actors. This does not necessarily means that “Security” is only a nation wide solution but on the contrary, due to

the wide pan European electricity system, it means that mechanisms and incentives to fulfill this obligation shall be endorsed by an EU legislative act to be also observed by non EU member States.

Taking into account this objective UCTE strongly stresses the importance that the EU Proposal for the Directive envisages clear rules and tasks considering All parties involved and not only TSOs and Suppliers. The Directive should be addressed to:

- First of all Governments (EU Member States and Non EU Member States) which are responsible for ensuring security of supply and which shall be obliged to clearly define and publish the roles and responsibility of the Other Market Actors.
- Secondly the Market Actors called to provide security of electricity supply obligations (not only TSOs and Suppliers - including Distributors and Traders) but also Generators.
- Thirdly the Regulators called to have a general interest that specific tasks may be imposed.

Article 4 “Network Security”

- **System security in the meaning of “System Operation Security” means both the respect of “minimum operational standards” set by TSOs to be observed by both TSOS of EU Member States and not EU Member States and by network users.**

UCTE is favouring the process to set up minimum operational standards binding for TSOs in order to guarantee the reliability and security of the interconnected electricity system.

This process has led to a broad acceptance that standards for security and reliability of the electricity system are set up by TSOs and should be made binding in their relationships regardless of their EU membership status.

Nevertheless, UCTE strongly favours progress with the EU Directive proposal in respect to the Consultation process on the Operational Handbook and Multilateral Agreement among TSOs. This should allow for the creation of a transparent legal framework where coordination on a regional basis and cooperation among TSOs to guarantee the network security become obligatory also in dealing in matters of system security with other parties (Market Actors, Regulators, EU Commission, Member States).

UCTE requests that

- **there should be a clearer reference that minimum operational standards are set up by TSOs on a regional basis (see UCTE Operational Handbook).**

Whatever the minimum operational standards mentioned in the EU Proposal (for instance: minimum performance standards for maintenance and development of the grid, safety, operational and planning standards and so on) may be, UCTE points out that this Directive should make some progress with respect to the EU Directive n. 54/2003/CE (article 11.5) and the EU Regulation n. 1228/CE (article 5.2) by requesting that the Body responsible and entitled to set up those minimum standards are TSOs.

- **Multilateral Agreement among TSOs should be part of the EU legal framework set up in the EU Directive Proposal for Security of Supply.**

In order to reach minimum operational standards that are binding at EU level and with Neighboring countries, **UCTE highlights the importance of providing TSOs with the instruments to apply these standards in their both bilateral and multilateral relationships with other TSOs.**

- **TSOs should be given the appropriate means to require that reliability standards are respected by system users through national Grid Codes.**
- **System security should lead to set up cooperation among TSOs on one side, and among TSOs and the other relevant market actors on the other side. To this end UCTE would like to call the EU Commission (as far as it recognizes in whereas 3 the**

importance of cooperation with TSOs for network security) to express its intention to set up a Group of TSOs as a means to guarantee cooperation among them.

- **System security in the meaning of “System Operation Security” should be part as a prerequisite for system development of the bulk electricity Interconnected system.**

UCTE highlights that political decisions can be practical only if technical issues are suitably tackled without confusion on rules and responsibilities. It means that the issue of “reliability and security” cannot be managed at EU level only by imposing a multilateral consultation among Member states with their neighboring countries, but needs a stronger cooperation among TSOs to both guaranteeing system security and system development.

UCTE warns that it is politically attractive to have a synchronous area extending from Lisbon to Vladivostok but problems have to be studied and solved before the expected realization of the project.

Article 5: “Maintaining Balance between Demand and Supply”

- **System security in the meaning of Adequacy of generation and supply by maintaining the balance between demand and supply needs measures to avoid problems from generation plant and grid failures. In that respect it seems not appropriate to hold TSOs responsible for generation and supply adequacy.**

UCTE welcomes the intention of the EU Commission to require Governments to take appropriate measures to ensure adequacy of generation and supply.

In that respect UCTE believes that the Governments and not the TSOs should be the body responsible for ensuring an appropriate level of reserve capacity or to adopt equivalent measures such as capacity mechanisms. On the contrary, imposing obligations concerning reserve capacity on TSOs can be counterproductive in the correct provision of balancing services as defined in the market rules. It should be clear that generation reserve capacity belongs to generators while TSOs can determine but not “ensure” an appropriate level of reserve.

Article 6: “Network Investments” and Article 7 “Interconnection Construction”

- **System Security in the meaning of adequacy of infrastructure should mean the need of adequate investments in both transmission grids and interconnections as well as adequate instruments for the construction of both transmission lines and interconnections.**

In view of the recent events occurred on the electricity transmission grids, UCTE welcomes the introduction of infrastructure reinforcement and renovation as well as new interconnections as a topical issue for security of supply.

In that respect UCTE points out that adequate medium and long term financing as well as adequate instruments to build transmission lines and interconnections are issues related to both transmission network and interconnections.

- **Decision or intentions for investments in both transmission network and interconnections as measures to enhance Security of Supply shall be left to the TSOs. To make Regulators responsible for endorsing the TSOs decision or intentions for investments in transmission interconnectors will not necessarily contribute to increase Security of Supply and might further slow down the investment process.**

If the aim of the EU directive is to provide adequate incentives for investments in the market in case they are not given by the market itself, UCTE points out the need to not create confusion among the bodies entitled to define investments on interconnections(TSOs), governments responsible to ensure security of electricity supply also via the approval of the investment strategy and finally regulators responsible to approve tariff setting mechanisms taking into account the investments decision on **transmission infrastructure** and **interconnectors**.

- **Cooperation among TSOs for infrastructure development should be a way to give effectiveness to infrastructure planning.**

- ***Adequacy of network investments and interconnections depends on adequate financial return of investments as well as on overcoming administrative hindrances to speedy construction and local and regional opposition.***

UCTE points out the need to address the real problems preventing adequate investments in electricity infrastructure in the Directive. It is in fact widely known that most of the reasons for the failure of investments decisions are related to environmental concerns and local opposition to constructions of new lines. Therefore financial penalties on TSOs for delays and fault in implementing infrastructure projects do not appear to be the right incentive to provide adequacy.

Article 8: "Financial Penalties"

UCTE considers that any penalties to be set up with regards to infringements to the provisions of this proposal of Directive should be proportionate with respect to the infringements. For this reasons it does not seems appropriate that penalties would be applied as a result of an EU legislative act as far as they are strictly related to the framework through which public service obligations are imposed on market actors (via national laws, concessions, public service contracts and so on).

UCTE recommends that the framework of penalties should be left to the subsidiarity principles.



UCTE OBSERVATIONS

on

EU proposal for a directive of the European Commission to the European Parliament concerning measures to safeguard security of electricity supply and infrastructure investments

The proposal of Directive derives from the need to establish a common European framework in order to guarantee and safeguard security of supply in Europe as a consequence of the electricity service outages occurred in Europe (Italy, Sweden - Denmark, England, Finland, Spain) in 2003 in the context of the liberalized electricity market.

In that respect the initiative of the EU Commission must be absolutely considered with a positive attitude although the same cannot be said on how the problems are approached and on the proposed solutions.

Hereafter follow some observations on the principal problems (referring to the proposed Directive presented on the 10th December 2003 and now under evaluation into the Energy Group of the EU Council) together with the recommended solutions with the aim to clarify the directive in its key aspects.

1. (art.1 and art.2) the proposal doesn't clarify neither define what has to be intended by security of supply in the electricity sector, creating besides confusion in the text between "safety of the supply to the final client", "safety in the service of transmission" and "safety of offer". It is believed that a correct definition of security of supply has to be comprehensive of adequacy, reliability and technical security of the system. We understand the security of supply as the overall system security and not the security of supply of some end users. Customers could and should be disconnected on individual basis only if the safe operation of the system is endangered. Furthermore it appears appropriate to better clarify the definition of distributed generation because the definition given by the EU Directive n. 54/2003 appears neutral.
2. (art.3) the correct objective to identify roles and responsibilities for security of supply doesn't find in the text a suitable and effective answer. In fact, exclusive reference is made to two categories of "responsible market operators": grid operators and suppliers. Responsibilities should be identified, more precisely also for producers, distributors, traders as well as for Governments and Regulators These latter are evidently not to be seen as market operators but as actors responsible for the provision of efficient rules to make the market happen. A common European harmonized framework will have to assign to each of those actors, tasks, responsibility and operating tools to be decided in a cooperative way. The correct definitions of the actors and of the chain of task/responsibilities and liabilities is furthermore a need in order to have clear references, in case of inefficiency, to identify the responsible subjects.
3. (art.4) Security is an issue that cannot be narrowed only to the EU countries but it should rather take into account the technical conditions of operation of the synchronously interconnected electricity network. In that respect UCTE is working on a Multilateral Agreement (MLA) under the commitment of the Florence Forum in order to share a contractual scene that obliges the TSOs to comply with UCTE operational rules and standards on a multilateral basis. The MLA is also applied to non EU countries synchronously interconnected. It should not be forgotten that it is necessary to continue the negotiations between Switzerland and EU in order to reach the acceptance of shared principles for an optimisation of security as a consequence of the commercial interchanges in the electricity sector. With reference to the UCTE standards - while operational rules and planning standards should be set via national grids codes including rules which the Generators are forced to fulfil - performance standard related to quality of supply to the final clients must not be imputed to the TSOs but to the Distributors. Furthermore it is observed that till now there is no EU community provision to force TSOs to guarantee cooperation among them, on bilateral or multilateral base, for ensuring network security with the only exception of article 5 of the

EU Regulation n.1228/2003/ of June 26th, 2003 for congestion management. It seems appropriate that the EU Directive proposal should set up the legal basis for bilateral and multilateral cooperation, also on regional base, among the TSOs of EU and non EU countries to guarantee coordination among them under conditions of reciprocity. This cooperation should be envisaged in the articles of the Directive as already mentioned in whereas 3 (cooperation for ensuring security of the grid, including transfer capacity, information provisions and network models).

4. (art.5) The EU proposal of Directive correctly places the problem of maintaining the balance between demand and supply as an issue related to system security and adequacy. However it should be considered that while the demand management and the equivalent measures to be adopted in such context can be the result of political choices, the adequacy of the offer is a task to be exclusively assigned to generators that will on their side be forced to encourage their investments. In such a context it should be expected from the TSOs to provide the data, specifications and forecasts so that the political choices and investment decision can be properly analysed to lay the foundation for secure development of the electricity supply.
5. (art.6 and art. 7) Adequate financial resources for the investments in the networks do not represent the most important problem for the realization of the infrastructures and interconnections. TSOs should have the responsibility for setting up the investment infrastructure strategy to be approved by the Governments and Regulators which also have to approve the tariff setting mechanisms to cover that plan. Governments on their side should prepare themselves to overcome the authorisations problems for the construction of new infrastructure while Regulators should set up the appropriate tariff structure mechanisms to reward the new investments. In that respect the coordination at European level of TSOs in issues related to the development of interconnections appears fundamental. Therefore it appears appropriate that the EU Commission would express its intention to give European enforcement to cooperation and coordination among TSOs, on a regional basis also, in matters of system security and system development, both via Multilateral Agreements and through the creation of a Group of TSOs. This group should be established as an advisory committee for the EU Commission following the model adopted by the Group of Regulators and would facilitate the development of consistent measures also with reference to infrastructure policies in order to guarantee overall coherence of infrastructure policies. This Group would allow to give an effective shape to the European Coordination as provided in the new Proposal on Ten Guidelines under examination at EU level. It could also allow for a stricter coordination among TSOs leading to a TEN Programme consistent not only with financing instruments but also with speedy authorisation procedures to be provided at European level.
6. (art 7 and art. 8) As far as sanctions are concerned it seems that the EU Directive proposal considers TSOs as the only bodies responsible for the implementation of the security policies whereas, as said above, it is quite evident that rules and responsibility are shared with other actors obliged to develop measures and policies for security of supply. Insofar financial sanctions on TSOs for delays in the construction of infrastructure as well as penalties to be set up by member states in application of the EU directive seem to be inconsistent with the aim of solving security of supply. In that respect UCTE reminds that inside the Association it has been working on a responsibility cap for TSOs through the Multilateral Agreement on the UCTE Operational handbook. From a UCTE standpoint it is not appropriate to apply penalties resulting from a EU legislative act as far as any penalty and sanction should be strictly set in relation to the infringement provided through national laws, public service contracts and so on. UCTE recommends that the framework of penalties should be left to the subsidiarity principle.
7. (art. 9) The implementation of the EU directive should not only inform the EU Commission on the provisions taken but should guarantee that some measures to ensure network security will enter into force. In that respect the need of a reinforced cooperation among TSOs, also through the Group of TSOs, should be made evident not only as already stated in whereas 3 but also in the articles. A link to cooperation among TSOs seems also appropriate in article 9 to allow the EU Commission to monitor the progress made in pursuing security of supply.