



Key messages on the EC 3rd legislative package

On TSOs as market facilitators

January 2008

Transmission System Operators role in developing market codes

With the objective to strengthen TSOs cooperation in a number of key areas, such as the development of market and technical codes, coordination of network operation and investment planning, the 3d package intends to create ENTSO-E as new TSO body.

One of the main tasks for ENTSO-E is the development of technical and market codes being at the heart of an integrated EU electricity market.

In order to be successful, one needs to clarify both the process contemplated by ENTSO-E and the 11 areas contemplated by the Commission in its proposal.

First, ENTSO-E considers that codes and rules need to answer, as much as possible, to the requirements of all concerned market actors as well as regulatory bodies while preserving the reliability of the European electricity power system. To this aim, ENTSO-E should establish a formal consultation process from the early start. In other words, before starting to write a code proposal, TSOs need to fully understand the requirements for each party. During the writing of a code, concerned market actors and regulators should also be regularly informed and have the possibility to provide in due time their comments and suggestions. ENTSO-E should also be fully transparent in explaining to all market actors and regulators the reasons why some remarks or suggestions are taken into account (and how) while others are discarded. This consultation pursues the objective to obtain a large consensus on any given piece of code or rule before sending the final draft to ACER. The role of ACER, through its own formal consultation process, should be to ensure public interest as well as verifying that the code effectively will contribute to the further development of the internal electricity market.

Second, owing to the involvement of all TSOs, region by region or EU wide, in the writing of each code or rule, ENTSO-E should ensure that those codes which are finally approved by ACER are binding for the concerned TSOs, through a contractual arrangement defining the roles, responsibilities and obligations. Should such contractual arrangement not be possible for all concerned TSOs, in a region or EU wide, the concerned codes and rules should be brought to the attention of the Commission. The Commission should then start the process leading to the Comitology procedure. Should other parties than TSOs be obliged to follow a given code, ENTSO-E should request from ACER and the Commission to submit this code to the Comitology process.

Third, the 11 broad areas where technical and market codes (both voluntary and binding) are foreseen as a means to pursue further electricity market integration need clarification. Whereas stakeholders seem to agree with the proposal to mandate TSOs to develop proposals on “technical” codes, the role of TSOs of facilitating the development of “market” codes has been questioned. In order to clarify the scope of market codes, it may be useful to look back on recent realisations. For ENTSOE-E, writing the code or the rules to allocate transmission capacity through auctioning is a “market code”. Also, writing the code describing the rules for establishing and running a secondary market for transmission capacity is a “market code”. The same applies for the rules establishing and running a balancing market or a market coupling between two or more countries. On the opposite, the code establishing the rules for a future market is not a TSO concern because it does not directly impact the network operation and TSOs do not take part in running part of whole of the process. Needless to say that codes, whether market or technical, for which another party is involved in its operation are part of the consultation and writing process. This is what has happened for example when developing what became the first electricity region in Continental Europe between France, Belgium and the Netherlands. Power exchanges and TSOs worked closely on all codes, rules and contractual arrangements.

In summary, ETSO believes that TSOs should have a clear mandate drafting “market” codes in the following areas:

- Cross-border capacity allocation (including secondary markets of capacity) whether implicit or explicit
- Congestion management (including in real time)
- Tariffs and Inter TSO Compensation
- Day ahead-, intraday- and balancing markets /– settlement incl. gate closure
- Transparency
- Data exchange

Market codes without any impact on TSOs technical responsibilities and operation should not be drafted by TSOs (rules on financial instruments such as ‘futures’ is one example).