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To ACER – Agency for the Cooperation of  
Energy Regulators

[consultation2014O01@acer.europa.eu](mailto:consultation2014O01@acer.europa.eu)

Milan, 16th June 2014

## **EDISON RESPONSE TO ACER PUBLIC CONSULTATION ON “ENERGY REGULATION: A BRIDGE TO 2025”**

### **WHO WE ARE**

*Founded in 1884, Edison is Europe’s oldest energy company. Today, Edison, which is part of EDF Group (Electricité de France), is one of the most important Italian operators in the procurement, production and marketing of electric power, natural gas and crude oil. Edison employs about 3,200 people in Europe, Africa and Middle East.*

*In the electric power business, Edison has a fleet of highly efficient facilities with a diversified production mix ranging from combined cycle gas turbine (CCGT) plants to hydroelectric, wind, solar and biomass.*

*In the hydrocarbons business, Edison has extensive Exploration & Production of hydrocarbons activities in the Middle East and Africa and is committed to develop European gas import infrastructures.*

*In 2008, Edison entered the Italian residential market with a sales package to supply electric power to families. A year later, Edison broadened its sales package for families with the addition of natural gas. In 2012 Edison achieved the milestone of 1,5 million customers served in Italy.*

*Edison and its subsidiaries operate across Europe (Italy, Greece, UK, Norway, Croatia, Bulgaria, Romania, Hungary, Belgium and Turkey), Africa (Algeria), Middle East (Egypt).*



## GENERAL REMARKS

Edison welcomes the opportunity to answer this ACER public consultation on the Green Paper “Energy regulation: a bridge to 2025”. Edison already took part in the preliminary consultation and is eager to contribute to the debate on the identification of the regulatory priorities for the next ten years.

We believe that a clear and stable regulatory framework is fundamental to deliver competitive and well-functioning energy markets able to ensure energy security, investments and cost efficient solutions to meet environmental and climate objectives. Nevertheless, regulation should lie on a proper policy framework to be defined at European level taking into consideration the new structural challenges arising for the energy sector.

Therefore, we believe that ACER and National Regulatory Authorities (NRAs) can play an important role in supporting policy makers’ understanding of the ongoing energy market evolutions through the identification of priority areas of actions. However, regulators should also be primarily focused on promoting a proper implementation and enforcement of existing legislation and regulation by all Member States with the aim to deliver the expected benefits of European energy market integration.

## ELECTRICITY WHOLESALE MARKETS

*Question 1: Have we identified correctly the issues and trends within each area of the energy sector?*

Edison believes that ACER correctly identified the main issues and trends of the European electricity markets and wishes to underline some general comments before answering the other questions proposed.

### ***Integration of wholesale markets***

Edison supports the implementation of the Target Model as a priority set of measures aimed to achieve an effective integration of European electricity markets. In particular, we would like to stress the following points:



- The rules on capacity allocation and capacity calculation included in the CACM and FCA Network Codes can effectively lead to the creation of a harmonized European wholesale market and to an efficient use of existing and future interconnections.
- The Target Model for the electricity market should be complemented by the harmonization and integration of national balancing markets/mechanisms as envisaged in ACER Framework Guidelines to guarantee the most efficient possible activation of balancing resources while ensuring the security of electricity supply and of network operations.

The early implementation of the Target Model through specific initiatives, such as the Price Coupling of Regions or Balancing Pilot Projects, should be supported as an essential opportunity to fine-tune the application of European rules through a learning by doing approach oriented to find practical implementation solutions suitable to national markets. Stakeholders' involvement, e.g. through the creation of Stakeholder Groups, in the planning and implementation phase of these projects is paramount to reach effective results consistent with the European market integration goals.

Finally, we believe that the implementation of the new rules included in the Network Codes should be carried out taking in due account national market characteristics. Some national market arrangements have been designed to guarantee the correct functioning of electricity markets by addressing local peculiarities and thus they need to be gradually and carefully amended to ensure a smooth implementation of the Target Model.

### ***Renewable growth driving changes in generation***

The massive penetration of non-programmable RES is having a significant impact on electricity market operations with a considerable shift of historical peaks and a significant reduction of the operating hours of traditional power plants which are however necessary to provide the capacity required to address the variations of renewable production.



The low predictability and controllability of renewable energy sources compared to conventional thermal generation leads to increased requirements in terms of reserve margins and balancing energy. This means that flexibility provided by existing thermal power plants as well as by new sources (e.g. demand response, electricity storages etc.) is greatly needed in order to ensure safe operations of the power system and, ultimately, the security of electricity supply.

We also acknowledge that, given the growing significance of the DSOs' contribution to the operations of the electricity system, a greater coordination between DSOs and TSOs will be certainly required. Since differences of national electricity markets are still significant, we believe that NRAs should step in to define a proper regulatory framework enabling DSOs to manage in a transparent and reliable way their network, also in the view to supply system services to the transmission grid. Hence, the rules applied to DSOs should be firstly harmonized at national level and progressively at European level.

#### ***Policy intervention to ensure adequacy***

We believe that adequacy and flexibility are different but related concepts which need to be addressed with different tools aimed to ensure on the one hand the generation adequacy of the electricity system and on the other hand the adequate remuneration of flexibility services provided by all market operators.

Yet, with the increasing penetration of non-programmable RES, the conventional power generation required to back them up needs to be flexible enough to respond to both predicted and unexpected changes of renewable production. It seems that in the medium/long term a system can be considered adequate not only when there is sufficient capacity to cover demand with a certain margin but also when capacity is able to cope with load fluctuation and volatility of generation from non-programmable RES. Therefore, the future adequacy of an electricity system will be increasingly dependent on the availability of a certain amount of flexible capacity (generation, demand response and storage) in proportion to the installation of non-programmable RES.

Thus, we are convinced that well designed capacity remuneration mechanisms can be necessary tools to ensure generation adequacy also in terms of flexible capacity,



even if they have to be implemented together with well-functioning intraday and balancing markets able to disclose the value of the available flexible products.

*Question 2: Have we identified an appropriate regulatory response?*

### ***Integration of electricity market***

Edison believes that ACER should continue to actively monitor the implementation of the European Target Model in order to ensure a coordinated and smooth harmonization process leading to an effective integration of European electricity markets.

We believe that priority should be given to the ongoing implementation of the Target Model, which already implies considerable changes of some national market arrangements, and to the definition of an efficient target for the integration of balancing markets. In our opinion ACER should focus its monitoring activity on ensuring that the implementation of the Target Model does not jeopardize the efficiency and attractiveness of national markets rather than proposing additional regulatory actions before the final achievement of the already established objectives.

This approach towards the Target Model would be however compatible with further regulatory interventions, at least at national level, aimed to adapt the electricity market design to the recent evolutions emerged with the penetration of non-programmable RES, e.g. by introducing RES balancing responsibility or CRMs. Furthermore, possible future review of the Target Model must be subject to extensive consultation and involvement of all interested stakeholders in order to reflect the actual evolution of electricity markets and the new needs pointed out by electricity market players.

### ***Wholesale market development***

- BALANCING RESPONSIBILITY. It is of utmost importance that all market participants can compete on an equal footing on energy markets by paying for the costs they generate, in order to have a uniform incentive across the market to a more accurate generation forecasting and to limit distortions of



market price formation which can lead to suboptimal investment signals. For this reasons, we believe that all NRAs should pave the way towards the full balancing responsibility for mature RES generation technologies, though with some specific adaptations at least in a first phase, as a necessary tool to improve the efficient dispatching of the generation park. This evolution should be facilitated by well-functioning intraday and balancing markets.

- LEVEL PLAYING FIELD IN WHOLESALE, BALANCING AND RESERVE MARKETS. We agree with ACER on the need to allow the participation of demand response and storage in energy and ancillary services markets on an equal footing with the other available resources, i.e. generation (programmable and non-programmable). In our opinion, properly designed markets should be able to select the best available technologies according to a technical-economic common merit order, while any support scheme aimed to incentivize the provision of flexibility services from one specific available technology can introduce distortions resulting in suboptimal and probably more costly activations. This technology neutral approach together with a well-functioning market, where properly designed flexibility products are available, allows to select the operators (generators, consumers, storages etc.) who can meet the flexibility requirements of the electricity system in the most efficient way (under a technical point of view) and at lowest cost. Furthermore, flexibility concerns should not be used as a reason to weaken the unbundling provisions compulsory under the European law. In particular, TSOs should not be allowed to become market participant through the ownership of storage facilities nor any other generation facilities.
- BALANCING MARKET. Edison shares ACER opinion on the importance of balancing markets for sending signals on the value of flexibility and making an efficient use of available resources. For this reason, we wish to highlight the following points:
  - We believe that priority should be given to the definition of more sophisticated products to be exchanged in balancing/ancillary services markets which accurately reflect the flexibility services



needed by TSOs for dispatching purposes. The price of this products should be able to remunerate service providers for both the availability of their facilities (reserve capacity) and the provision of the energy required (or reduction of consumption). For this purpose, the opportunity of a forward procurement of balancing reserves should be duly considered.

- The integration and harmonization of balancing markets can potentially increase the resources available to TSOs to face the intermittency of RES electricity production with possible efficiency gains. Nevertheless, this process should be carefully driven in order not to lead to a reduction of the already available products nor interfere with the development of tailor-made products needed to meet specific system requirements. Therefore, we believe that the integration of balancing markets as outlined in the Framework Guidelines, is already a demanding objective which should be gradually and pragmatically pursued with a step by step approach backed by cost benefit analyses.
- ACER should guarantee that its Framework Guidelines are correctly transposed into ENTSO-E European Network Code, without additional regulatory intervention and should supervise and promote a flexible implementation process, e.g. through Pilot Projects, whose feedback is essential to deal with practical complexities and to ensure the operational security.
- Edison also wishes to stress that stakeholders' involvement during the implementation of the Target Model for Balancing and transparency on the functioning of cross-border exchange mechanisms for balancing reserves and energy are essential to build confidence in these new market arrangements.



### ***Intervention in electricity markets***

- RES SUPPORT SCHEMES. Edison favors a revision of RES support schemes in order to better weigh up the positive externalities generated by the penetration of these technologies and the additional costs incurred by the electricity system, which are finally borne by consumers. Thus, we propose to gradually shift the target of RES support schemes towards the promotion of the most promising technologies which need support to enter the market and reach commercial scale.
- CAPACITY REMUNERATION MECHANISMS:
  - Generation adequacy and flexibility are separate but interrelated concepts to be addressed through different measures. The first could be defined as the ability of the system to meet the aggregate power and energy requirement of all consumers at virtually all times while flexibility should be quantified as the technical ability of available capacities to face extreme upward and downward variations of net-demand within different timescales. Generation adequacy essentially refers to a medium/long-term horizon while flexibility to short term dynamics.
  - Even in conditions of overcapacity, adequacy should be properly addressed, especially considering that prices emerging in energy only markets fail to provide adequate investment signals leading to boom and bust investment cycles. Therefore, CRMs can turn out to be an essential measure which, if properly designed, can effectively address the inability of energy-only markets to secure adequacy.
  - As previously mentioned, the increasing penetration of RES requires programmable capacity with flexible operational performances able to follow a residual load curve (net of non-programmable RES and inflexible generation) featuring very steep ramp rates and to support reduced running hours. Therefore, CRMs could also be designed to ensure, with a technology neutral approach, the availability in the medium-long term of a sufficient amount of capacity with adequate flexible characteristics. The objective of the CRMs would be in any



case to promote investments in this flexible capacity while the remuneration of flexibility services provided by these technologies should be left to the market.

- Pricing of flexibility services should be ensured by improved energy and balancing/ancillary services markets which should guarantee to operators the full recovery of the additional costs incurred for their provision (e.g. the maintenance costs related to the increased power plants modulation).
- CRMs should be designed and implemented at national level to address the specific adequacy requirements which may differ across countries. This would also help to avoid possible situations where the contribution of capacity located in other countries is limited due to congestions/unavailability of interconnections during emergency situations. In our opinion, ACER could however contribute to ensure an adequate level of coordination of CRMs at European scale in the following areas:
  - Promotion of coordinated system adequacy analyses at EU level;
  - Promotion of the inclusion of the contribution of interconnections in the calculation of capacity adequacy requirements within each national market.

#### ***Improved coordination between NRAs and TSOs.***

We believe that the implementation of the European Network Codes into national markets will require a closer coordination between national regulatory authorities and TSOs as a necessary precondition to ensure a consistent implementation of the European Target Model. In this area, ACER has a prominent role in ensuring that there is a common interpretation and consistent application of European rules across Member States, as well sharing best practices among NRAs.

Edison also favors regional cooperation between TSOs on system operations and capacity calculation since we believe that this can consistently improve security of supply and lead to a more efficient use of interconnection capacity.



*Question 3: Which regulatory actions are most important and should be prioritized?*

As described in detail in the answers to the previous questions, ACER should prioritize the following regulatory actions:

1. IMPLEMENTATION OF THE TARGET MODEL. ACER should give priority to the implementation of the Electricity Target Model by ensuring a consistent application of the of Network Codes' rules across European countries. ACER should also promote the gradual implementation of the Target Model for electricity balancing on the basis of what has been already defined in the Framework Guidelines and on the outcomes of the first integration projects.
2. CAPACITY REMUNERATION MECHANISMS. Edison supports the implementation of capacity remuneration mechanisms to complement the electricity market design with the objective to reach system adequacy, also in terms of flexible capacity. CRMs should be able to deliver generation adequacy at the lowest cost through an appropriate design (e.g. market based, technology neutral, open to new/existing generation etc.).
3. RES INTEGRATION INTO THE MARKET. ACER should promote regulatory initiatives towards a gradual integration of mature RES technologies in the energy markets (e.g. by extending balancing responsibility). ACER should also back a gradual phase out of support schemes for these traditional technologies in favor of emerging technologies which need to be supported to reach commercial scale.
4. CREATING A MARKET FOR FLEXIBILITY. Energy, reserves and balancing markets should be improved to ensure a proper remuneration for the flexible products provided by generators (programmable and non-programmable), demand response and storages which should compete on an equal footing without improper advantages granted by biased regulatory frameworks.



## GAS WHOLESale MARKETS

*Question 1: Have we identified correctly the issues and trends within each area of the energy sector?*

*Question 2: Have we identified an appropriate regulatory response?*

Edison shares ACER's view on the main issues and trends identified for the gas wholesale market, but regrets that the regulatory actions in the gas section of the document do not include much more concrete interventions to support a sound development of the gas sector in Europe, throughout the uncertainties that are currently faced by the industry. In particular, we believe that gas should be more explicitly recognized and sustained for its valuable contribution to sustainable growth, as the only flexible back-up fuel for RES generation and as a realistic alternative to oil in the transport sector.

### ***A flexible framework for a liquid pan-European gas market***

Edison welcomes the idea that ACER's priority is the full and effective implementation of the regulatory acts developed according to the Third Package, i.e. the Network Codes, the CMP Guidelines, etc. We do believe that a fast implementation of these measures, that will lead to harmonized rules for the access and operation of European national transmission networks, will contribute to accelerate the process of creation of a single market. For this reason we strongly support the identification of pilot projects leading to an early implementation of approved Network Codes.

Gas Regional Initiatives (GRIs) could represent the right framework to develop such pilot projects, as they proved to be a valuable tool to fasten market integration. In order to make GRIs' action more effective, we would recommend their re-organization to better reflect the real interactions between national markets. For instance, countries that are physically connected with different regions should be part of several GRIs: this is the case of Italy, for example, that should have the possibility to develop joint projects also with North-Western markets from which is supplied.



A key aspect for an effective implementation of Network Codes is the coordination between adjacent TSOs and NRAs, to avoid different interpretations of regulatory provisions and consequently, the application of inconsistent rules at the two sides of an interconnection point. This is particularly the case with respect to the implementation of rules regarding the allocation and management of cross-border capacity, such as capacity allocation, congestion management and capacity calculation:

- On capacity calculation, the definition of transparent criteria and procedures to be followed by TSOs would ensure, to the benefit of the entire system, the optimization of the level of bundled capacity offered to the market;
- On congestion management, a common interpretation of the CMP Guidelines is paramount to avoid the application of different measures by interconnected TSOs and not to undermine the full usability of bundled products. With this respect, we urge a revision of the definition of contractual congestion on which the application of CMP is based: indeed, it does not allow to distinguish between harmful hoarding behaviours (that deserves to be punished) and congestion in the allocation of some capacity products that does not prevent market users to access other capacity products (for instance, products of shorter duration). The risk of applying “to the letter” the current definition of contractual congestion is the implementation of strict rules, such as the Firm Day-Ahead UIOLI, in a framework where capacity congestion does not represent a criticality any longer.

### ***Achieving liquid gas markets***

Edison believes that market liquidity has significantly developed at most European gas trading points: this, as well as increasing price convergence between most European gas markets, was also confirmed by 2012 ACER Market Monitoring Report. We are confident that this trend will last during future years and will probably accelerate once the Third Energy Package and all the related regulatory provisions are in place. Therefore, a rapid and consistent implementation of Network Codes should be the main tool to stimulate liquidity further.



Market integration, through the merger of market areas or the creation of trading zones, could have merit to be further investigated in the future, but it should not be pursued as a target in itself. At the present conditions such an approach could be:

- Premature, for those markets where still Third Energy Package and Network Codes are not implemented,
- Not cost-efficient, for those markets that already achieved or are progressively achieving a satisfactory level of liquidity.

For the reasons above, we would favour market integration resulting from bottom-up interactions among market players.

#### ***Uncertain gas supply and demand***

The uncertainty surrounding the future of gas markets should be a key parameter orientating the action of regulators towards the creation of a framework that is at the same time (1) stable enough to provide stakeholders with the medium and long-term visibility to invest and (2) sufficiently flexible to be easily adapted to changes.

With this respect, a pan-European framework based on the consistent implementation of the Third Package related regulation would provide a stable reference point for market players to take their business decisions, provided that NRAs, in coordination with ACER, should be also allowed to design targeted interventions to better fit with the peculiarities of national systems.

#### ***Providing electricity flexibility through gas***

We share with ACER the importance to provide an adequate regulatory answer to this issue, whose importance was highlighted by Edison in many occasions. Gas-fired generators do represent, in technological terms, the most appropriate source of flexibility to back-up the increasing share of non-programmable RES generation; however, they must be put in the conditions to provide this flexible service and to compete with other forms of generation on a level playing field. For this reason, several aspects are important:



- INFORMATION → Users serving gas-fired generators should be provided within-day with timely, granular and accurate information on plants' consumption, as these data are fundamental for balancing purposes. Improved coordination between electricity and gas TSOs on this aspect would prove very useful. In particular, we think that electricity TSOs should provide gas TSOs with all the necessary and granular information to allow for a more precise within-day forecast of the offtakes from gas power plants.
- BALANCING PRODUCTS → Once users serving gas-fired generators have the information on their consumption, they should be able to access products on the market that allow them to balance their position. Appropriate balancing products (based on storage, line-pack flexibility, etc) should be designed to suit the balancing needs of generators.
- RESTRICTION TO RENOMINATIONS → restrictions to renomination, such as the ones deriving from the application of DA UIOLI, represent a serious constraint to the possibility for gas-fired generators to balance their position. Therefore, other CMP measures like Over-subscription and Buy-back should be preferred.
- WITHIN-DAY OBLIGATIONS → the introduction of within-day obligations should be limited to cases where the need to ensure the integrity of the network make them inevitable. Furthermore, System Wide Obligations (according to the classification of WDOs provided by the NC BAL) should be preferred over obligations applied on single entry/exit points.
- TARIFFS → The design of transmission tariffs should not penalize users with a highly modulated consumption.

With reference to the possible alignment of the gas and electricity day, we would like to highlight that possible benefits of such an action would depend on the structure and design of the electricity balancing markets, that currently differ in the various Member States. In electricity systems where a Central Dispatch System model is applied (Italy, for instance), the misalignment between gas and electricity day could also represent a source of flexibility to allow market operators to balance their positions on both markets.



*Question 3: Which regulatory actions are most important and should be prioritized?*

As said in previous responses, we think that the priority should remain the full and consistent implementation of existing regulation deriving from the Third Package.

*Question 4: Are there other areas where we should focus?*

We believe that regulatory developments should take into consideration policy aspects that are important to shape the functioning of gas markets. The issue of security of supply is particularly important with this respect, as measures to safeguard it have not only an impact on the way the gas market works, but in countries where gas has a relevant share in the generation mix, they might also impact on the electricity market.

## **INFRASTRUCTURE INVESTMENT**

### ***Transparency of ENTSO-E reporting***

The development of the Internal Energy Market and the stronger interaction between national energy policies stress the need to provide decision-makers and markets participants with a coherent and complete community-wide quantitative description of plausible future market scenarios to be included in the ENTSO-E reports (TYNDP, SOAAF, Summer and Winter Outlook). In this regard, Edison considers necessary to improve the transparency related to the input (data, key parameters of different scenarios) and methodologies since those are key elements for all stakeholders to understand and use the outputs of the different reports elaborated by ENTSO-E.

### ***Smart grids and storages***

Edison fully shares ACER position on the opportunity to support pilot projects aimed at testing different early stage technologies and technical/organizational arrangements for the development of smart grids. This can be done, for instance,



through additional remuneration awarded to investments in a testing phase. Once the result of this testing phase are available and one or few technologies can be referred to as benchmark technologies, we support the introduction of “output based” regulation aimed to reward only the investments able to deliver the required benefits to consumers in the most efficient and cost-effective way.

As regard investments in “smart network”, Edison also wishes to support their focus on grid components (such as remote control systems, smart meters etc.) in order to avoid that TSOs and DSOs are involved in the realization and management of assets in competition with market participants. This is the case of storage systems which should be developed on the basis of the economic signals resulting from prices of energy and ancillary services markets, being the services provided by this technology in many case comparable to the ones procured by generators and demand response. Therefore, the large scale development of storage systems (e.g. batteries) should be left to market dynamics and not be subject to tariff incentives and as such included in the Regulatory Asset Base of TSOs and DSOs.

#### ***Rules for the development of gas incremental capacity***

With regard to the development of common rules to test the demand for new cross-border transmission capacity and allocate it (i.e. ENTSOG’s amendment to the CAM Network Code on incremental capacity), we recall the importance that the resulting regulatory framework provides a high level of transparency and visibility for users who might be interested in purchasing capacity on a long-term basis, thus financing part of the investment. In our experience, lack of visibility on the evolution of the price of capacity, as well as scarce coordination between TSOs and NRAs of the involved systems (which led, for instance, to the allocation of capacity with different procedures and different timing at each side of an interconnection), represent one of the main reasons that discouraged users to take part in some recent Open Season procedures.



## CONSUMERS, RETAIL MARKETS AND THE ROLE OF DSOs

*Question 1: Have we identified correctly the issues and trends within each area of the energy sector?*

*Question 2: Have we identified an appropriate regulatory response?*

Edison welcomes ACER's increasing attention to the retail energy market and wishes that any action is targeted at removing remaining barriers that prevent final customers to fully benefit from the positive effects of competition that developed during recent years in most national markets. The majority of these barriers, according to Edison's experience, are related to the presence of over-regulation in a segment of the energy chain that should be left to free market.

### ***An appropriate framework for energy customers***

Edison shares the principles of the CEER-BEUC 2020 Vision, but wishes to highlight some considerations on the actions that are being considered by ACER for domestic consumers:

- Transparency in communicating to customers is certainly a key to stimulate their engagement and to build their trust in the energy market. With this aim, a simplification and rationalization of energy bills might be appropriate in some countries. A possible solution could be the obligatory presence in the bills of some required information easily understandable and the possibility for customers to request further optional information. However, undue constraints to standardize the format and lay-out of the communication between suppliers and customers should be avoided, as the way how suppliers interact with customers represents an important aspect of competition and stimulates suppliers to provide high-level services to final customers.
- A faster and easier switching process would be much welcome by suppliers, but it should not be forgotten that in some cases (gas supply, for instance), there are technical constraints that would make a "24-hour" obligation



unrealistic. Ensuring that all actions that need to be undertaken by DSOs to make the 3-week switching effective would already represent a relevant step forward to improve the management of switching procedures.

- With the roll-out of smart meters:
  - the issues related to data management are becoming increasingly important and law/regulation should provide effective answers to customers' concerns, by ensuring data privacy and security. In order to achieve this, roles and responsibilities in the data management process should be defined and it should be clear who can access consumers' data and that this should happen only with the consumer's permission;
  - customers will have the possibility to benefit from new services, that will further contribute to stimulate competition on the retail market. It should be clear that the provision of these services is left to suppliers and third-party businesses on the free market. Nevertheless, DSOs' respect of obligations to provide measurement data in timely and thorough manner is crucial for these services to develop successfully.
- We call for caution when it comes to introduce minimum standards on a free market segment, as it could lead to standardization and eventually reduce the degree of competition between suppliers, that is also based on the level of service provided and not only on prices. On the other hand, we believe that minimum standards for the level of service should be granted by regulated entities, such as DSOs, not only with respect to the activities that imply a direct service to the customer (connection/disconnection/maintenance), but also with regard to the timely and reliable provision of data measurements to suppliers.



### ***Removing barriers in Europe's retail markets***

Edison agrees with ACER's view that there is a weaker need to harmonize rules of national retail energy markets with respect to the efforts that in past years pushed for the creation of common rules for wholesale markets.

We believe that the most urgent objective of NRAs, with ACER's support and supervision, should be to remove the barriers that still exist in some countries and that prevent final customers to fully benefit of competition. Among them, it is paramount that all Member States have a clear definition of vulnerable customers (who deserve regulatory protection) and the consequent removal of regulated tariffs for all other customers. In Italy, where regulated tariffs are set below the level of costs incurred by operators on the free market, they do not leave room for discounts and eventually make offers on the free-market non-competitive.

### ***Enabling the market in demand response***

The primary objective of regulators should be to define market arrangements which support the participation of demand response and electricity storage to energy and ancillary services markets on an equal footing with the other available technologies, i.e. generation (programmable and non-programmable).

As already mentioned, properly designed markets should enable the comparison of the costs incurred by each available technologies to supply energy and flexibility services with the aim to minimize the costs to consumers by selecting the best technology according to a technical-economic common merit order.

We recognize that flexibility and ancillary services markets have been traditionally designed to allow generators to supply TSOs with the services needed to operate their systems. NRAs should then ensure the definition of the technical conditions for the provision of demand response and storage services as a pre-condition for these technologies to be properly integrated in the electricity markets. Market rules should then be limited to allow a proper definition and remuneration of the products to be exchanged, facilitating the access and the fair competition of all players.



A sound development of demand response should be accompanied by a clear definition of roles and responsibilities of all the actors involved. In particular, where aggregators acting as Balancing Service Providers (BSPs) are distinct from the relevant Balancing Responsible Party (BRP), the neutrality of the latter has to be ensured.

### ***Role of DSOs***

We agree on the fact that DSOs are going to play a crucial role in the future energy market and we believe that this role will be best played if they remain neutral subjects, concentrated on the regulated management of distribution networks. The idea of the supplier as single contact point with the customer should be preserved and the development of new post-meter services should be left to competition dynamics among suppliers.

It should not be neglected that the quality of services provided by DSOs is already a crucial concern for the development of competition on retail markets. Indeed, in our experience, inefficiencies on the distributor side, for example related to the management of data or to the provision of connection/disconnection/maintenance services, can have negative effects on the suppliers' reputation, as well as generate economic damage associated with errors or inefficiencies that impact on the post-sale management activities (claims, dispute resolutions, etc). Therefore, we would recommend Regulators to focus on ensuring that DSOs improve the quality of their services to comply with minimum standards.

### ***Improved coordination***

The objective to improve coordination between TSOs and DSOs is certainly one that can be shared to improve the overall functioning of the system.



### ***Encouraging efficiency through dynamic pricing***

The possibility of making commercial offers based on dynamic supply algorithms, as well as the provision of other innovative products (bundled products, post-meter services, etc), should not be limited by the presence of regulatory constraints. Indeed, the possibility to differentiate commercial offers and services is a key element of competition and, provided it respects quality standards and correctness of commercial practices, it should not be restricted by the introduction of too stringent regulation.

#### ***Question 3: Which regulatory actions are most important and should be prioritized?***

We believe that the priority should be the full implementation of existing legislation in all Member States.

Further regulatory interventions, as the ones proposed by ACER, can then be considered, but they shall not have as a consequence the limitation of suppliers' possibility to provide customers with innovative services and products by introducing a too strict regulation. Over-regulation and standardization, as currently present in some Member States, can indeed prove counter-productive and limit the potential benefits of competition for final customers.

#### ***Question 4: Are there other areas where we should focus?***

An increasingly important issue for energy suppliers is the one of insolvent customers. In some Member States (Italy, for instance), suppliers have only a few leverages to fight against this problem, provided that in many cases, despite suppliers' requests, insolvent points of delivery are not disconnected. As a consequence, suppliers face the risk to entirely bear the bad debt, including distribution costs, system costs and taxes. We believe that this problem should be addressed also at European level, with the aim to assess the possibility to reconsider the structure of the credit risk allocation among involved parties: the



DSO (for grid services), the State (for taxes) and the supplier (for retailer services and energy).

## **IMPLICATIONS FOR GOVERNANCE**

Edison agrees with ACER on the need of a clear and robust governance ruling relationships and interactions among the actors having part into the implementation of the regulatory framework related to the Third Energy Package. The objective should be to boost a fruitful cooperation between the national and the European level, to design a consistent regulation, being capable to support future evolutions of energy markets.

We believe that the governance should be designed to ensure the achievement of the following main objectives:

- Consistency of the overall design of the European Regulation and consistent implementation of measures at national level,
- Justification, supported by cost-benefit analysis and impact assessments, for new requirements and for changes to the existing ones,
- Reflection of market/system needs in the regulatory framework.

### ***Fit-for-purpose processes for the implementation and enforcement of market rules***

We recognize the phase of implementation of the existing Network Codes and Guidelines in the various national systems as a crucial step towards the creation of a single energy market. Therefore, all responsible parties (TSOs, NRAs, Member States) should have a clear commitment to transpose into their national markets the rules defined by the Network Codes and, since cross-border aspects are at stake, should work in strict coordination with their counterparties of adjacent countries to guarantee consistent frameworks. With this regard, ACER's role is very important to ensure common interpretation and proper implementation of European regulatory provisions at national level, also by identifying best practices that could be spread around.



Consistency, however, should not only be ensured by national entities during the implementation phase, but should remain a key objective also during the phase of Codes' drafting: consistency of the contents of the various Network Codes would be better ensured if the teams working on them at all levels (ACER, ENTSOs, EC) act in coordination.

The process to define new regulatory provisions should recognize stakeholders' knowledge of markets as a key asset to design effective regulation. Ad-Hoc Expert Groups set up by ACER are thus important and interesting tools when they are intended to foster debate among stakeholders and contribute sharing practices and expertise with regulators. However, they should be discussion and not only information places. Similarly, stakeholders should be allowed by ENTSOs to actively participate in the development of each code, according to a model of "real involvement" as the one adopted by ENTSOG.

Governance should be clear also for the process to modify existing network codes, which must be transparent and flexible to allow for a fast regulatory response to market evolution.

Finally, we would like to recall the importance of having regulatory decisions supported by thorough cost-benefit analysis and impact assessments. This was not the case for most of the Network Codes approved and under discussion, where regulatory decisions were not properly justified on the basis of technical and economical assessments of the consequences of their implementation.

### ***The role of ENTSOs***

The Third Energy Package established the ENTSOs giving them a central role in the elaboration of the European energy regulation with the responsibility to draft European Network Codes. It is therefore essential that these technical bodies take an unbiased approach in setting new rules applicable to all market players. Proper governance rule can help to achieve this objective.

Regarding electricity, even though ENTSO-E must act within a given framework (Framework Guidelines prepared by ACER), it is not always clear whether the



interest of the member TSOs prevails over the public interest. Indeed, it should be stressed that ENTSO-E was created by merger of both regional technical TSOs association and ETSO, former association lobbying for TSOs' interests. This confusion has led to both process mismatches and contentious issues. This is not the case in gas where ENTSO-G is distinct from GIE, the association representing the interests of European gas infrastructure operators.

Today, ENTSO-E, as well as ENTSO-G, have capitalized important experience and knowledge regarding network codes. Thus, Edison wishes to suggest some improvements of ENTSO-E governance rules which are applicable without any change of the legislative framework of the Third Energy Package:

- The conflicting situation of ENTSO-E could be addressed by a governance decision to split the TSO industry association from the ENTSO-E role defined by the 3rd Energy Package.
- It would be worthwhile that ENTSO-E adopts the good practices developed by ENTSO-G with the organization of Stakeholder Joint Working Sessions open to all interested stakeholders. This would ensure proper consultation all along the developing process of the draft (not only at the end when the text is finalized) and with communication of updated and complete versions of the texts, clear and transparent evaluation of the comments received (notably those rejected).

As regards the national implementation of European Network Codes, we believe that ACER and national regulators, rather than TSOs, should take the lead in monitoring the effective and consistent application of the new rules across EU countries. Regulators are the only subjects able to ensure an impartial and uniform interpretation of the upcoming regulation without undue interference of the interests of one part of the value chain.

#### ***Appropriate regulatory oversight of new entities***

Many network codes are creating new entities that indeed should fall under regulatory oversight as they will have to produce some rules applicable to all. At least we would recommend (i) a high level of transparency for the governance and



the functioning of these entities and (ii) a fair composition of those groups, with the presence of stakeholders in operational committees defining the guidelines and preparing the decisions (not just information transmission).

***ACER's role in an expanding market***

ACER's priority should remain the monitoring of European markets and the contribution to the cooperation of member NRAs for a consistent implementation of European regulation. That said, dialogue and exchange of knowledge and practices with neighbouring Third Countries and Regions is important to ensure that Target Models are progressively adopted also in these areas. Existing organizations, as the MedReg and the ECRB, could be the right place to take on this activity.

In some case dialogue and cooperation is particularly important as, due to the geographical position of Third Countries, the lack of consistency of their regulation with the European framework, represents an actual obstacle to the completion of the internal market. An example is Switzerland, where we call for an institutional solution to keep them on board in the process of market integration.



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