

Note about the Agency's informal opinion on the selection of the IT system to implement the pilot project for intra-day market coupling

In the conclusions of its 23rd meeting, in relation to the tender process for the selection of the IT system to implement the intra-day market coupling in the North-West Europe (NWE) region, the European Electricity Regulatory (Florence) Forum “called for a robust and timely dispute-resolution procedure to be put in place with the involvement of ACER”. In answering this call and to support the intra-day project, the Agency has agreed, in the event that the involved Power Exchanges (PXs) were unable to reach a unanimous decision, to provide an informal opinion on the preferred IT solution, on the condition that all involved PXs accepted to be bound by such an opinion. Based on that, the involved PXs have signed a procurement agreement that commits them to follow the Agency's informal opinion, if they are unable to achieve consensus.

On 21 December 2012, the involved PXs sent a Request for Offers (RfO) to potential vendors. Two vendors submitted offers by the 8 February 2013 deadline. Since then, the involved PXs have undertaken the analysis of the (commercial and technical) offers received, which has included workshops with the vendors.

On 12 April 2013, the involved PXs provided the Agency with a first notice of failure to agree on a preferred IT system, but also indicated that they were going to use the subsequent two weeks for a further attempt to agree on the IT system selection.

However, on 26 April 2013, the involved PXs provided the Agency with a second failure notice. As a result the Agency was expected to provide an informal opinion.

On 15 May 2013, the Agency sent a letter to the involved PXs raising a number of concerns regarding the offers submitted by the two vendors, including on delivery time, non-discriminatory access to cross-border capacity, performance and costs. These concerns prevented the Agency from drawing a definite view at that stage. Instead, in that letter, the Agency invited the involved PXs to request and obtain from the prospective vendors additional elements and feedback.

On 5 June 2013, the involved PXs submitted to the Agency the vendors' feedback, together with their individual assessments, as requested in the above-mentioned letter.

On 17 June, the Agency replied to the involved PXs with its final assessment of the offers:

- While no offer is fully compliant with all PXs' requirements as defined in the RfO, sufficient comfort regarding their ability to deliver an adequate IT system to implement the intra-day market coupling in the NWE has been provided by the prospective vendors;

- On the crucial point of the needed time to deliver the IT system with all the necessary functionality, only one accepted to commit to a six-month deadline;
- The commitment of this vendor to meet most of the performance and computational efficiency requested by the PXs appears within reach;
- This vendor has also accepted to back up its commitments with a penalty scheme along the lines proposed by the Agency;
- The commercial offer from this vendor appears less expensive granting an additional advantage to this proposal.

In conclusion of its assessment, the Agency has issued its informal opinion. Although ACER cannot publish it as such at this stage until the negotiation is completed, as it contains commercial information, the Agency can disclose that it indicates the preferred IT system in line with the above considerations, while stressing a few aspects to be addressed by the involved PXs.

Furthermore, the informal opinion recalled that, in line with point 15 of the conclusions of the European Electricity Regulatory (Florence) Forum, the Agency now expects the involved PXs to finalise the negotiations with the vendor of the preferred IT system as soon as possible.

Considering the delay accumulated by this project and its importance for delivering an EU wide intra-day market by 2014, the Agency recommended that the geographical scope of this project is as wide as possible.