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ACER - Draft Guidance Note Consultation

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

Commentary

Objectives

EDF Energy agrees with ACER's objectives stated in its draft guidelines to involve all affected and interested parties in an open, transparent, coherent, timely and efficient manner (2.1) and through public consultations benefit from other parties' experience (2.2). We will engage fully to assist ACER's effort to achieve their objective.

Target Group

We agree with the objective of targeting interested parties but the task of identifying and engaging with these groups should not be underestimated. We believe that there is a role for national regulators to use their close contacts with market players to encourage further engagement. We note that it might not always be obvious to some market players that a code could have an impact on their business.

Timing

The annual work plan is a useful document for providing an overview of the planned consultations but it is perhaps less useful than it could be as the publication dates of more contentious papers are expressed by season (or within a two month window), rather than month or even date.

We ask that ACER keeps to the consultation periods stated in 4.3. Most energy companies and other interested parties require a workable time for internal consultation and to develop an internal impact assessment of the proposals before they can respond authoritatively and with relevant data.

Means and processes

EDF Energy is supportive of ACER's general processes and believes that there is a place for a fixed questionnaire format for consultations. However, a fixed list of questions with restricted space for response raises three problems:

- It can too easily restrict the respondent's ability to explain their reasoning.
- It can sometimes be used to ask leading questions.
- It may inadvertently address only the more obvious high-volume issues, while ignoring some "smaller" issues with respect to the policy change, but these might still have a major impact on a small number of market participants.

ACER's documents are well written but sometimes there are terms used which have different meanings in different Member States. For example the use of the term "balancing" has a slightly different meaning across Europe though the principles are broadly similar. We would like to see greater attention given to this issue by ACER developing one EU wide glossary of key terms for all ENTSOE, ENTSOG and ACER documents to eliminate possible confusion caused by differences between national and European uses of such terms. Although some glossaries have been included in consultation documents, they have sometimes been inconsistent.

We would encourage ACER to informally discuss its views with relevant stakeholders. The weakness of expert groups and similar fora can be that they are not always inclusive and can run the risk of being self-selecting. More transparency and representativeness in the selection process would avoid possible exclusion of key interests. Inclusion could be assisted by perhaps using simple quota (for example a balance of experts from NRAs/ TSOs/ generators/ distributors/ suppliers). Another solution would be to open up some of the meetings to all interested stakeholders. Although this may be less convenient and more time-consuming for ACER and the ENTSOs, hopefully in the long term this will mean better policy development.

Feedback

We have always welcomed the way ACER gives feedback after the consultation process (6.3) and would like this practice to continue. We would urge ACER to hold more follow up consultations when there are significant problems with the initial set of proposals. A very good example is the recent Requirements for Generators Connection Code.

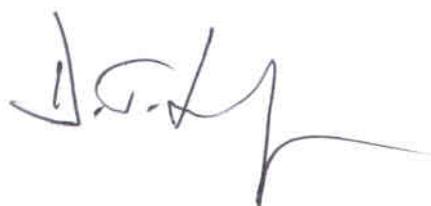
Confidentiality

We agree with ACER's confidentiality policy and would comment that the financial impact of regulatory change is in most cases likely to be market sensitive, sometimes with very material potential impacts.

Should you wish to discuss any of the issues raised in our response or have any queries, please contact Nigel Edwards on +44 20 3126 2506, or myself.

I confirm that this letter and its attachment may be published on ACER's website.

Yours sincerely,

A handwritten signature in black ink, appearing to read "D. Linford".

Denis Linford
Corporate Policy and Regulation Director