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Subject: Response to ACER public consultation on European Register of Market Participants

To whom it may concern.

Agency for the Cooperation of Energy Regulators (ACER) opened on the 18th of March 2016 a public consultation on the functioning and usefulness of the European Register of Market Participants. We kindly send you on behalf of our company the comments and proposals for the parts, where we think it would bring benefits for all relevant stakeholders. These comments were gathered on the base of our experience and work with the relevant European Register of Market Participants. For all of our comments, please, see the ANNEX I.

ANNEX I.: Slovenské elektrárne, a.s. response to ACER REMIT consultation on Functioning and Usefulness of the European Register of Market Participants



ANNEX I.

Slovenské elektrárne, a.s. response to ACER REMIT consultation on Functioning and Usefulness of the European Register of Market Participants

At the beginning we have to state that our experience gained came mainly from European Register of Market Participants (CEREMP) supervised by Slovak national regulatory authority (URSO), where we are currently registered, but also partially from other countries where our related companies are presented.

Firstly, we have to emphasize that CEREMP has brought some benefits and useful information not only for ACER or national regulatory authorities (NRAs), but also for market participants as such. We also understand that CEREMP was created with the aim to give ACER overview of all relevant market participants and give to the public all relevant related information. At the same time we have to add that CEREMP has brought some administrative burden and costs associated with its implementation, but mostly during the registration process we have experienced some difficulties and we also consider some specific fields or parts of CEREMP as redundant.

Most importantly, we have to stress that introducing additional requirements or obligations coming from registration process is neither useful nor beneficial and would create additional administrative burden and should be very carefully considered. We are of opinion that the current CEREMP is robust enough and we only propose to fine tune the existing processes and requirements.

Consultation questions and answers:

- 1. Regarding fields 112 and 316 ('VAT number' of the market participant and ultimate controller), taking into consideration that some market participants and ultimate controllers do not have a VAT number, ACER proposes to add an additional checkbox labelled: 'I do not have a VAT number.' Moreover, taking into account that different formats for VAT identification apply outside the European Union, ACER proposes to adopt a more flexible format for fields 112 and 316 for non-EU market participants. Do you agree with this change? If not, please justify your reply.**

Generally, we do not oppose this proposal, but we also question what is the benefit of requiring VAT numbers for the purpose of REMIT. Based on this assumption we would prefer to delete this field, if not otherwise necessary.

- 2. Regarding the reformulation of field 113 (Energy Identification Code ('EIC') of the market participant):**

- a. EIC codes are widely used for reporting transaction and fundamental data. The current registration format allows only one EIC code to be provided by a market participant, although there may be several different types of EIC codes related to the same market participant and used for reporting. Moreover, although the EIC codes are publicly available, other pieces of information, such as the location of the facility identified by the EIC code, are not public. Taking into consideration the need to identify for monitoring purposes to which market participants different EIC codes belong to, the current registration format can be developed to allow the introduction as mandatory fields of all EIC codes (i.e.: EIC X, EIC Y, EIC Z, EIC T, EIC W and EIC A) related to the same market participant. What are the pros and cons of such an approach? Please explain.**



We do not see a benefit to include all of the EIC codes as mandatory field. Especially regarding all REMIT obligations we use just general EIC code assigned to our company. At the same time you could have a company which has dozens of facilities with assigned different EIC codes. In this regard it would be very burdensome to write them down all, especially if we do not see them relevant to fulfil REMIT obligations. As a compromise you could enlarge this field as proposed, but only as a voluntary field.

b. In case the introduction of all EIC codes used for reporting by market participants (see previous question) is allowed by the European register, the Registration Format could be expanded to:

- **identify the name of the object to which the EIC code relates (e.g.: name of the power plant),**
- **identify the address of the object to which the EIC code relates (e.g. location of a power plant identified by X EIC code),**
- **identify the country where the market participant or the object is physically registered (e.g. in case of Y, T EIC codes, all countries which lie in the area of the Y, T EIC code,**
- **identify the market participant's role/relationship with the submitted EIC codes in order to differentiate situations where one code is used by more than one market participant. The Agency has identified the following relevant roles:**
 - ✓ **Proprietor/owner of the object to which the entered EIC code relates**
 - ✓ **Operator of the object to which the EIC code relates**
 - ✓ **Other role which has information about the object to which EIC code relates**

i. Do you agree with the possibility to add these mandatory fields in order to identify each EIC code? If not, please justify your reply.

ii. Would you like to add/reformulate any other potential role/relationship of a market participant with the submitted EIC codes to the ones mentioned in the list above?

Please, see our answer to question no. 2(a) above.

3. Field 116 (Global Location Number of the market participant - 'GS1' in the coding scheme) is rarely used by market participants. Do you agree that this field is removed from the European Register? Please explain your reply.

Yes, we fully support this proposal.



4. **Field 118 ('Trade Register')** was requested by some NRAs. Would it be adequate to allow for special characters in this field? If not, please justify your reply.

We do not oppose to allow special characters to be included in this field, but the same question as above applies to this field, that what is the benefit of having this field in the CEREMP, once this field is irrelevant for fulfilling REMIT obligations. On the other side there are other relevant fields for identification of the market participant.

5. **The Implementing Regulation** lays down the provision to include Trader IDs in transaction reports (field 3 of Table 1 in the Annex to the Implementing Regulation). The Trader ID is the login username or trading account of the trader and/or the market participant or counterparty as specified by the technical system of the organised market place. The field 'Trader IDs' may be added to the European Register as part of the market participant's registration information to make it easier to link different trader IDs to one specific market participant for market monitoring purposes. Do you agree with this proposal and what are the pros and cons of this? Please explain your reply.

As answered above, we are of opinion that there are other different identification data for the market participant additionally to this one. At the same time "Trader ID" is visible on the reports sent to ACER and easily linked to the relevant market participant. We consider this proposed field as redundant.

6. **Field 120 ('Publication Inside Information')** is currently filled by many market participants with a general link (for example, a link to the company's main webpage) and not with the exact location where the inside information publications are published. Do you agree to refine its definition so that it is clearly stated that the URL(s) should indicate the exact address where the inside information is disclosed publicly and, to create a new field indicating the location of the web-feed used for reporting the publications of inside information to ACER?

Yes, we agree with this proposal. We have experienced the same issue. We consider this as beneficial also for market participants.

7. **Regarding field 121 ('ACER code')**, taking into consideration the need to ensure the traceability of relevant changes in the registration records two new fields could be added to the Registration Format: one indicating previously used ACER codes; another identifying the relationship with the previous codes. The identification of the relationship between ACER codes could be provided by selecting the following types:

- same person previously registered in another Member State;
- incorporation of a registered market participant;
- spin-off from a registered market participant;
- other.

i. Do you agree with the above proposal? Please give reasons for your answer.

ii. Do you see a more efficient way to ensure traceability of relevant changes in the registration records?



This proposal could be beneficial also for market participants in relation to first two bullet points. We don't recommend to apply this for the "spin-off from a registered market participant", because this change is similar to establishment of a new market participant with the obligation to register. This could be somehow misleading for other market participants and could lead to some drawbacks.

- 8. Section 4 ('Corporate Structure' of the market participant) does not currently provide full transparency on the corporate structure of the market participant. It has been proposed that every market participant registered indicates the VAT number, name, and percentage of ownership of all companies belonging to the same group of the market participant (including company(ies) that are not market participants) as this would increase transparency from a market surveillance perspective.**

i. What are the pros and cons of such an approach? Please explain your reply.

ii. Are there any improvements more generally to the corporate relationship section you would suggest?

Generally, we have to say that for this section we have experienced most issues. First of all we have to stress that there are no clear rules to identify "mother company" as well as "controlled" and "other related companies" within the same group. We have experienced quite different legal interpretations from different companies once fulfilling this section of the CEREMP. In this regard we propose to apply competition rules and law in relation to mergers and acquisitions or other clear rules relevant for identification of mother company (controlling) and controlled company. There should be also clear rules, which apply to "other related companies" otherwise in extensive legal interpretation you could really end-up with dozens or hundreds of companies to be included in this section. If this extensive legal interpretation is applied it is very difficult to handle the registration and keep the register up to date.

Secondly, due to the fact that our company is a part of a big energy group, we have had to register plenty of "other related companies", where we have experienced technical or IT problems in approving all of these companies in the CEREMP. At the same time it was not possible to register all related companies at once, but you had to do it one by one always waiting for the approval of the actual one. Even though we are cooperating with our NRA more than a year to solve this issue, ACER was not able to fix the CEREMP in this regard.

The proposal mentioned in this question should be very carefully considered, because it could end-up again in a situation where you have to register dozens or hundreds of companies due to the complexity of the Group shareholding. This would be neither welcomed by ACER nor by the market participants creating time-consuming huge administrative and bureaucratic system and burden.

The registration of market participants should be a straightforward process, requiring only essential data which enables regulators to properly identify the market participant without including dynamic data that requires frequent updates and leads to an operational burdensome and costly process to keep the registration forms updated.

- 9. In Section 3 to 5, we understand that some fields may not be self-explanatory. In order to avoid the misinterpretation of the information inserted by a market participant, do you think that some additional free text fields should be included to allow a better description of the particular situation of the market participant? Namely regarding:**



- **the main activity of the market participant;**
- **how the ultimate controller performs such control;**
- **information about the existing/envisaged data reporting agreements.**

If ACER would like to introduce additional information to be provided by market participants, firstly, it should assess what is the benefit of it and if it is strictly necessary for REMIT obligations fulfillment. In relation to the question we would not recommend ACER to introduce such additional information, because it would not bring the desired benefit and could be again interpreted in various ways by different market participants.

10. Do you have any other comment on the current fields provided in Annex 1 to ACER Decision 01/2012 on the Registration Format that can further improve the functioning and usefulness of the European register of market participants?

Generally, rather than creation of other identification fields for market participants we would opt for deleting the redundant or proposed ones (e.g. GS1, additional EIC cods, Trader ID) as proposed above. At the same time we call ACER to carefully consider introduction of any additional registration obligations. We generally consider the required information and data as sufficient.

We consider redundant to fill in persons responsible for trading and operational decisions (fields 202.-211.). From our perspective there is enough to state the person responsible for communication with ACER. Throughout this person all queries could be handled. Based on above mentioned we call for deleting such fields or persons from CEREMP.

Regarding section 3. of CEREMP we see different application of Ultimate controller across market participants. Better guidance and clear rules should be applied. Again we recommend to use competition law in this regard.

11. In 2011, the Council of European Energy Regulators (CEER) issued a report recommending factors that are important in meeting the above aims. The current Registration regime was introduced, as it was considered that it provides the right regulatory balance to identify who is in the market and to enable monitoring markets to detect abuse. The Agency is keen to understand stakeholders' views on this balance, in particular in relation to the previously-raised concerns that different national administrative requirements, which trading companies need to meet in order to operate in the national wholesale energy markets, could represent potential barriers to the creation of a Union-wide level playing field for market participants.

i. Do you consider these national administrative requirements a relevant barrier to entry and an obstacle towards a true pan-European energy market? Please provide examples of administrative requirements that you believe constitute an unjustified barrier to entry that could distort the level playing field at European level.

ii. If you do believe there are barriers to entry, how could these be mitigated?

iii. Do you consider other possible regimes, compared to the existing registration regime, more useful to enhance the overall transparency and integrity of the wholesale energy markets and ensure a Union-wide level playing field for market participants? (e.g. EU trading license regime).



Generally, we are not aware of any national administrative requirements as a relevant barrier, but we fully agree and support that harmonized and identical registration process and requirements should be applied across EU, otherwise we risk that some market participants would not have level playing field as others registering in different member states. In an extreme situation it could lead to the situation where market participants will try to find country with less stringent requirements.

Additionally, we would not opt currently for any different kind of registering mechanism just from practical reasons, but rather to focus on fine-tuning the existing one.

- 12. Some counterparties and organised market places (OMPs) voluntarily require market participants to be registered in the European register of market participants before they can trade with them/in their platforms. Do you consider that the introduction of this as a legal requirement would benefit the integrity and transparency of the wholesale energy markets? What would be the pros and cons of introducing this legal obligation?**

Firstly, we have to emphasize that any kind of additional requirements could be burdensome and bureaucratic in this instance and again it could discourage market participants from being active on EU market or on various organized market places (OMPs). On the other side once OMPs prove that without being registered in CEREMP as market participants they are not able to fulfil their REMIT obligations or the integrity and transparency will be heavily deteriorated, ACER could analyze the possibility of introducing such requirements.

- 13. Do you find the publicly available extracts of the European register of market participants useful for your business and/or for the transparency of the wholesale energy market? If not, which additional information should be published?**

We would welcome to publish REMIT related contact person and its contact details or specific REMIT related contact details of the market participant, where specific REMIT related issues can be easily communicated to by other market participants.

- 14. Do you have any other comments on the functioning and usefulness of the European Register?**

Currently, we don't have any other specific issues to be shared with you as those already mentioned in this response to this public consultation.

- 15. Following consideration of responses to the public consultation, the Agency aims for any resulting modification to the European register of market participants and to the Registration Format to be adopted by 30 June 2016 and to apply as of 1 January 2017. Do you agree with this proposed timeline? If not, please justify your reply and propose an alternative timeline.**

We conditionally agree with the proposed timeline, but only in case, when all relevant documentation and guidance will be published and available well in advance to grant market participants enough time to implement required changes.