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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Commission Regulation

**on submission and publication of data in electricity markets and amending Annex I to
Regulation (EC) No 714/2009 of the European Parliament and of the Council**

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1. PROBLEM DEFINITION

The current rules of fundamental data transparency in electricity are defined in Regulation (EC) No. 714/2009 and in the Congestion Management Guidelines¹ which is annexed to the Regulation.

The Regulation together with the Congestion Management Guidelines put obligations on TSOs to provide a row of data relating to the supply of and demand for electricity – in short on market fundamentals. The classes of information to be published on a regular basis comprise of data related to available transmission capacity, capacity used, aggregated realised commercial and physical flows, ex-ante information on planned outages and ex-post information for the previous day on planned and unplanned outages of generation units larger than 100 MW. Additionally, information on forecast demand and generation as well as ex-post realised values for the forecast information is to be published.

However, the current rules have several deficiencies and shortcomings:

The current rules are not complete: In order to better predict prices and to understand where power can be sourced at most favourable conditions, suppliers and traders need accurate forecasts on expected wind and solar power feed-in. Although TSOs regularly generate such forecasts to better prepare for the safe operation of their networks, current rules do not require them to make these data available to market participants.

The current rules are not precise enough: for example. Regulation 714/2009 states that TSOs shall publish 'relevant data on balancing on balancing power and reserves'. At the same time it does not provide any further guidance on which particular balancing data should be published. Since the relevant data are not further specified, TSOs do not publish any or any comparable data. This leaves potential providers of flexibility (i.e. flexible generators or large consumers with adjustable load) with uncertainties as to how best to optimise their resources.

The current rules are not timely: for example the rules provide that unplanned unavailabilities (outages) of generation or consumption units need to be made available only on the day following the outage event. This does not allow for generators, suppliers and traders to instantly react and adjust their portfolios. It also precludes TSOs from being able to better utilise their reserves reducing the security of energy supplies. The possibility of timely

¹ COMMISSION DECISION of 9 November 2006 amending the Annex to Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity

reaction to changes in the supply and demand balance has always been important, however, the rapid deployment of intermittent generation sources has made it to an imperative.

The current rules do not provide for an integrated view of market fundamentals on EU level: The rules do not foresee data to be aggregated allowing for regional or European level assessment of information. They also do not provide for uniform data formats which would facilitate data processing. As a result market participants cannot properly assess changes in regional or European supply and demand balances. This is clearly inadequate when Europe is moving to more integrated markets and eventually for full EU market integration by 2014.

2. RIGHT OF THE EU TO TAKE ACTION

Article 18(3) of Regulation (EC) No. 714/2009 provides the possibility for the Commission to adopt legally binding rules on transparency by amending the existing transparency provisions annexed to the Regulation.

3. OBJECTIVES OF THE INITIATIVE

The objective of the initiative is to define an appropriate framework for the publication of data on transmission infrastructure utilisation, generation, load and balancing to promote the development of a competitive and liquid European wholesale electricity market. The disclosed data sets should be complete, specific, detailed and timely available. In addition information should be available for all market participants – suppliers, energy traders, generators, and demand side participants – on a fair and non-discriminatory basis across all Member States. Information should be provided in a way which allows market participants to establish a coherent and consistent view of market fundamentals across the whole of Europe.

Better, more regular and coherent data availability will also enhance the security of energy supplies. It will enable TSOs to better control their networks and operate them under more predictable and secure conditions.

4. POLICY OPTIONS

Option 1 –no EU, no regulatory action (baseline)

This option implies that the current rules on fundamental data transparency in Article 15 of the Regulation (EC) No. 714/2009 and section 5 of the annexed Congestion Management Guidelines remain unchanged. This would leave the market with the current set of transparency rules bringing no remedy to the identified shortcomings. This would mean among others:

- (1) No coherence between the insider information disclosure obligations of REMIT and the transparency requirements with regards to the availability and use of generation assets of Regulation (EC) No. 714/2009.
- (2) No forecast of expected intermittent (i.e. wind and solar) generation output made available to market participants
- (3) No clarity on how TSOs should compose forecasts about expected consumption (load) over different timeframes (current rules do not specify whether e.g. the month ahead forecast should be given per week or whether it should be a minimum and/or a maximum forecast value per forecasted period)
- (4) No clearly defined and comparable data relating to balancing provided to market participants

- (5) No clarity when exactly TSOs would need to publish forecast and offered transmission capacity figures (current rules only specify that TSOs should make data available in 'due time').
- (6) No clarity on precisely which group of market participants need to make certain data available to TSOs (current rules only generally require 'market participants concerned' to provide data without qualifying what type of data need to be provided by whom)
- (7) No binding rules providing for an integrated view of market fundamentals on EU level

We expect that under Option 1 voluntary national and/or regional transparency schemes, such as the EEX² and Nord Pool Spot³ information platforms or ENTSO-E's entso.net⁴ would continue and provide a slow but organic improvement of the overall transparency situation in Europe.

Option 2 – no EU action but more reinforced implementation through regional initiatives

Similarly to Option 1, this option foresees no additional transparency rules to be adopted on EU level. At the same time ACER together with national energy regulators would re-launch and enhance ERGEG's Electricity Regional Initiatives - ERI⁵ (see also Annex III) to improve wholesale market transparency on a voluntary basis and monitor progress and compliance with the existing legal requirements through the regional monitoring reports or similar publications.

Publication of information will be guided by the ERI work in addition to the same voluntary initiatives referred to under Option 1.

Option 2a – Adopt more detailed binding rules at EU level with implementation through regional initiatives

This option implies adopting more detailed and consistent binding rules for the publication of fundamental data related to transmission infrastructure utilisation, generation, load and balancing across Europe. Technically, the Commission would use its powers as provided for in Article 18(3) of Regulation (EC) No. 714/2009 and adopt binding rules through comitology by amending or replacing the existing transparency provision annexed to the Regulation. The proposed rules are expected to bring the following improvements when compared with the identified shortcomings as listed under Option 1. Taking the points in the same order as under chapter Option 1:

- (1) The rules would provide that decisions relating to unavailabilities and outage events of generation and consumption units ≥ 100 MW should be disclosed as soon as possible but no later than one hour after the decision is made or the occurrence of the outage. This would allow market parties under obligation in REMIT to effectively and timely disclose outage information (qualifying as inside information under REMIT) bringing clarity to coherence between the two transparency frameworks.
- (2) The rules would require TSOs to provide forecasts of and regular updates on the expected output of wind and solar power generators. This would allow market participants to better understand the likely evolution of the overall supply situation

² For details see: <http://www.transparency.eex.com/de/>

³ For details see: <http://www.nordpoolspot.com/Message-center-container/UMM-List/>

⁴ For details see: <http://entsoe.net/>

⁵ For details see: http://www.acer.europa.eu/portal/page/portal/ACER_HOME/Activities/Regional_Initiatives

with wind and power generation being one of the most important short term price determinants.

- (3) The rules would set out when and for which timeframes TSOs need to provide load forecasts. For example the rules would provide that the monthly forecasts have to be available one week before the monthly cross-border transmission capacity auctions and be calculated for each week of the month concerned. For each week a maximum and a minimum forecast value will have to be published. This would create comparability across all markets and enable market participants better optimise their assets and portfolios.
- (4) The rules would require TSOs to publish the amount and types of reserves committed, the prices paid for the reserves, the amount of energy activated from reserves, the imbalance settlement prices, etc. This would allow potential providers of flexibility to better assess how and where to utilise their flexible assets. It would also enable traders (balance responsible parties) with multiple portfolios in different Member States to better compare imbalance prices and adjust their planning procedures.
- (5) The rules would provide a uniform time schedules when TSOs are required to provide their forecast on available transmission capacities and when they need to publish offered capacities for different timeframes. These timelines would harmonise with timelines governing the provision of load forecast. This would allow market participants with portfolios across numerous markets to receive relevant information in time ahead of the respective capacity allocation procedures.
- (6) The rules would set out for each required transparency item which market participant need to provide relevant information/input to the TSO. For example, with regards to outage of large consumption units the rules would make it clear that operators of consumption units have to provide this data to TSOs. This would provide clarity and clear obligation on relevant market parties.
- (7) Similarly to Option 1 and 2, Option 2a does not foresee binding rules providing for an integrated view of market fundamentals on EU level

Similarly to Option 2, the publication framework will continue to evolve on the basis of the ERI transparency work and through voluntary initiatives by e.g. power exchanges (for example the EEX and Nord Pool Spot information platforms) or ENTSO-E (entso.net). No binding rules on a central European transparency platform are considered.

Option 3 – Adopt more detailed binding rules at EU level including rules for central data publication

This option implies adopting the same detailed and consistent binding rules for the publication of fundamental data as provided in Option 2a.

Going beyond these rules, Option 3 foresees that all relevant fundamental data would be published on a centrally managed, pan-European, web-based transparency platform run by ENTSO-E. This would enable market participants to form an integrated view of market fundamental on a European level. For the provision of the platform, beyond ENTSO-E other potential providers of transparency could also be considered. However, existing transparency platforms, such as the one run by EEX or Nord Pool Spot have all distinct regional coverages and, as for-profit undertakings, are not expected to provide transparency in markets which they don't or don't intend to cover with their underlying traded products.

On the other hand ENTSO-E, as a mandated association of TSOs, has a full coverage of all EU markets. In addition the architecture of Regulation (EC) 714/2009 puts a primary transparency obligation on TSOs. It can be expected that TSOs are more likely to set up a well-functioning data exchange framework with their own association as with any other potential transparency provider. Such an exchange would not need to start from scratch and could well build on the expertise and experience gained with the existing entsoe.net platform, saving time and resources for implementation.

At the same time the rules would recognise existing transparency platforms by allowing data owners to submit data to ENTSO-E by using the platforms as facilitators.

5. EVALUATION OF OPTIONS

The table below summarises the impacts of each policy option, allowing for a quick comparison:

	<i>Market functioning/ liquidity</i>	<i>Impact on prices</i>	<i>Administrative costs</i>	<i>Job Creation</i>	<i>Environmental impact</i>
Option 1	0	0	0	0	0
Option 2	0 / +	0 / +	-	0	0
Option 2a	+	+	--	0 / +	+
Option 3	++	++	---	++	+

Options 1 and 2 do not represent any new legal transparency measures. Option 1 is most likely to underperform, or best case equals to, Option 2 in all the assessment criteria. This is because due to missing coordination TSOs data disclosure will remain divergent, limiting the usability of the data for market participants. In fact none of these two options contribute sufficiently to meeting the specific objective of the initiative, since the detailedness and timeliness of the data remain inadequate. Both options are likely to leave the market with high costs due to higher market risks and inefficiencies. At the same time they involve little or no increase in administrative costs. If any, such costs would typically relate to additional resources with NRAs and/or TSOs to better coordinate transparency measures.

Both Options 2a and 3, though to varying degrees, fulfil the set objectives, i.e. help prices to better reflect true fundamentals, thus improving market functioning. While Option 2a brings the requirement to publish more detailed and timely data to a sufficient level, it does not guarantee that the data will in fact be made available in the required consistency and quality. Option 3 would meet the set objective best because it not only foresees that data sets are complete on the national TSO level (option 2a) but it also provides data access through a single and unique platform. This in turn allows for synchronous data access and the possibility for market participants to instantaneously gauge regional and/or European fundamentals.

None of the options have direct environmental costs. Indirect environmental benefits may be significant under Options 2a and 3 due to changes in plant dispatch. Differences between the options are, however, difficult assess. It is likely that these effects will be most pronounced under Option 3 because of the superior data access it provides. This holds also true with regards to the expected security of supply benefits. Option 3 offers the most comprehensive

information to market participants and regulators to assess the development of system adequacy and plan for preventive action in crisis situations.

The options discussed have only limited direct employment effects. Employment effects are rather indirect and a function of the overall economic impact of the options in question.

Option 3 fulfils best the set objectives yielding the highest benefit to consumers. At the same time it involves only slightly higher administrative cost than Option 2a. Already a tiny reduction in the price of electricity or small reductions in transaction costs will easily outweigh the involved administrative costs.

6. MONITORING AND EVALUATION

With regards to the objectives of the present initiative, the following indicators seem suitable to measure its expected impact:

- The availability of information on the European transparency platform and TSOs websites,
- Increased volumes of trades,
- Reduced bid-offer spreads,
- Convergence of prices between different regions.

The Commission will analyse the above indicators in its benchmarking reports on the functioning of the internal energy market⁶ and in the quarterly and annual reports of the Energy Market Observatory⁷. In addition NRAs will have to continue assessing the level of transparency through the ERI. For these analyses important feedback will come from stakeholders biannually through the Commission's Electricity Regulatory Forum⁸.

Since TSOs will continue playing a central role in the proposed transparency framework, NRAs who have already assumed regulatory responsibility under Regulation 714/2009 will continue to ensure compliance with the proposed measures.

As the proposition includes the set-up a central information platform by ENTSO-E, it might be appropriate for ACER to ensure compliance with the rules regarding the obligations placed on ENTSO-E.

⁶ http://ec.europa.eu/energy/gas_electricity/legislation/benchmarking_reports_en.htm

⁷ http://ec.europa.eu/energy/observatory/electricity/electricity_en.htm

⁸ http://ec.europa.eu/energy/gas_electricity/forum_electricity_florence_en.htm