

***European Commission - Public consultation
Enhanced data transparency on electricity market fundamentals***

UFE position statement

GENERAL COMMENTS

“Union Française de l'Électricité” (UFE) is the French professional association for the electricity industry. It represents the sector's employers within the electricity and gas industries and acts in the interest of its members - generators, TSO, DSOs or electricity suppliers – in the economic and industrial fields.

In France, our members – CNR, DIRECT ENERGIE, EDF, EDF Energies Nouvelles, ELE, ENEL France, E.ON, ERDF, France Hydroélectricité, GDF-SUEZ, POWEO, RTE, SHEM-GDFSUEZ, Syndicat des Energies Renouvelables, UNELEG, VATTENFALL - employ 150 000 people.

UFE is convinced that transparency on fundamental data is crucial to promote a level playing field in the market by reducing information asymmetry and ensuring a more efficient functioning of wholesale market competition.

In France, electricity market fundamentals data have been available on the TSO's website since November 2006. UFE and the producers within the French Transparency initiative (6 reporting companies representing 85 % of the French installed generation capacity) have been committed, with the support of the TSO (RTE), in a step by step generation data transparency process since 2006. In parallel with this generators involvement, the French TSO is publishing information on wind energy forecast for the French grid.

Although not cited in the initial impact assessment of ERGEG, this French initiative has achieved a high level of transparency on fundamental generation data and will continue to improve it during 2011, under the scrutiny of the French Regulatory Authority (CRE).

UFE is aware of the competition concerns attached to a high level of transparency in any markets but considers that these issues can be addressed through the market monitoring framework of the National Regulators Authorities. The exhaustive fundamental data transparency requirements implementation should be accompanied by a systematic review under the ACER authority of market monitoring rules and powers granted to all NRA.

UFE considers that a high level of transparency requirements combined with an appropriate market monitoring framework should ensure the market integrity and prevent any abuse or manipulation of the wholesale energy market. UFE strongly believes that asset backed trading business model implemented by all utilities provides sufficient security to all market participants, especially purely commercial entities or simple trading companies.

The implementation of the Transparency requirements, adjusted from time to time when necessary, should therefore enable utilities to be shielded from any further request from market participants as long as they comply with the 714/2009 Regulation.

To ensure a European wide harmonized implementation process, UFE stresses the need for having a clear and consistent schedule. UFE considers that the implementation of the transparency requirements will be complex and progressive and asks for the setting of clear deadlines for each main step in the process.

QUESTION 1:

Do you have any major problems or policy issues related to transparency which go beyond ERGEG's advice and which you think should be addressed in the Commission's proposal?

UFE is of the opinion that legal certainty requires that the future regulation makes clear that the compliance with the transparency requirements shields utilities from any further information request from market participants under REMIT. It is of the utmost importance to ensure that legitimate hedging and optimization activities, that support the development of efficient, liquid and effective wholesale markets, are not undermined.

Some required information is based on qualitative assessments, i.e. forecast information, duration of unplanned unavailability, hydro storage energy volumes calculation method... These data should be considered only as estimates based on best efforts of the generators as one cannot assure the exact information on forecast data. The disclosure should not create any legal liability towards market participants. The assessment of data accuracy should remain under the NRA scrutiny, in the scope of market monitoring. UFE also recommends that the status of ex-ante information be clearly referring to the best available assessment at the time it will have to be disclosed with a detailed waiver for the data providers.

The high level of transparency should be consistent with the protection of the data providers: the data requirements should be limited to the scope of information definitions of the Guidelines.

Besides, the disclosure obligation should be based on already existing and available information otherwise the costs/benefits analysis could turn negative if information has to be specifically designed by power producers.

Most of the information regarding planned or unplanned unavailabilities (whether for generation units, consumption units or transmission lines) shall be disclosed or updated within one hour once the decision is made. UFE is wondering about the definition of a “decision making”; when do we consider a decision is made? UFE recommends that the decision making moment should be decided and set in accordance with the NRA.

QUESTION 2:

Do you consider that definitions are complete and clear enough to avoid any potential problems when applied?

UFE is of the opinion that the actual guidelines let the room for various interpretations. Therefore, all the attentions will be turned toward the detailed definition ENTSO-E will have to provide, in accordance with the Guidelines and not going further.

Nevertheless, UFE wants to point out some comments that could improve the accuracy of the Generation Data part of the Guidelines:

1. The “production unit” term should be removed from the Guidelines and the 100 MW threshold shall apply only to the “generation units”. Indeed, a threshold applying to two different concepts depending of the data to disclose may bring confusion without any added value. Giving information for all the small generation units making part of a production unit larger than 100 MW could lead to implementation overcosts.
2. The point 4.3.2.3 (ex-ante forecast of available capacity) shall be removed. In fact, it is useless regarding the point 4.3.2.4 (ex-ante information on planned unavailability) providing more relevant and dynamic information and on a consistent format.
3. The point 4.3.2.7 (filling rate of the water reservoir and hydro storage) should be disclosed in percentage rather than in MWh. Indeed, the translation of a volume of water stored in MWh depends on a lot of assumption according to each valley. Should it be finally maintained in MWh, UFE is of the opinion that a standard and simple method has to be approved and applied by all the hydro power generators at the European level.

Because transparency requirements are crucial to the well-functioning of the electricity markets as it creates price accuracy and bring confidence to the stakeholders, the process should remain under close monitoring from the sectorial regulators and smoothly and diligently adjusted when necessary with the contribution of the data providers and users.

QUESTION 3:

Points 4.1.3.7 and 4.1.3.8 of ERGEG's guideline require publishing ex-ante information on planned and ex-post information on the unplanned unavailability of consumption units including the name of the consumption units, location, bidding area, available capacity during the event, installed capacity, etc. Do you consider that publishing this information on a unit-by-unit base would be likely to create any competition concerns (e.g. because of the commercially sensitive nature of information on energy consumption of individual companies)? If yes, for which industries, in which Member States, etc.? How does this concern relate to the potential benefit this information yields to participants of traded electricity markets? Could this concern be remedied in a way which would nevertheless enable market participants to properly assess such an important change in a demand fundamental (e.g. by publishing data in aggregated form)?

NA

QUESTION 4:

Points 4.3.2.4 and 4.3.2.5 of ERGEG's guideline require publishing ex-ante information on planned and ex-post information on the unplanned unavailability of generation units including the name of the generation units, location, bidding area, available capacity during the event, installed capacity, etc. Do you consider that publishing this information on a unit-by-unit base would be likely to create any competition concerns? If yes, how does this concern relate to the potential benefit this information yields to market participants? Could this concern be remedied in a way which would nevertheless enable market participants to properly assess such an important change in a supply

fundamental (e.g. by publishing data in aggregated form, for instance per production type and balancing zone)?

UFE already discloses similar information:

- Since June 2010, the French generators have been providing forecast availabilities, unit per unit, for each generation units larger than 100 MW, for the next 3 months;
- Since December 2010, the French generators have been disclosing within 30 minutes the unplanned outages (total unavailabilities) of units larger than 100 MW.

UFE considers that the points 4.3.2.4 and 4.3.2.5 of the ERGEG's guidelines do not constitute any competition concerns if duly monitored by the national sectorial regulators. Besides, these data represent an important expectancy for the majority of the market players.

QUESTION 5:

Point 4.3.2.8 of ERGEG's guideline requires publishing actual unit-by-unit generation updated every hour. Do you consider that hourly publishing this information on a unit-by-unit base would be likely to create any competition concerns (e.g. by increased possibilities to monitor the behaviour of competitors, to enter into collusive strategies)? If yes, how does this concern relate to the potential benefit this information yields to market participants? How in your view could the concern be remedied (e.g. by publishing data in aggregated form, for instance per production type and balancing zone and/or by publishing with a longer delay than one hour)?

The French transparency initiative is about to be improved end 2011 by disclosing the actual unit per unit generation output within one hour, for generation units larger than 100 MW (and not "production units" as mentioned in the Guidelines).

UFE considers that those data do not constitute any competition concerns if duly monitored by the national sectorial regulators.

QUESTION 6:

Do you see any other issues arising from ERGEG' proposal which may in your view give rise to competition concerns?

There is obviously an issue to properly balance the level of transparency requirements to help market functioning without creating a scope for market manipulation. We would like to underline the anticompetitive incentive an excessive level of transparency requirements may create, that could even questioned the market process itself. Therefore, UFE stresses the importance of transparency requirements be defined at a level which is practical, efficient, with a very clear status for all information quality definition, leaving potential competition concerns to the competent authorities which, in cooperation with the energy regulators, have already all the means and power to instruct any individual practice either at a European level or at national level.

Potential competition concerns should in any case not justify increasing constraints put on market participants.

Finally, UFE points out the need to review the definitions of generation types proposed in the ERGEG's advice. For instance, UFE suggests to adopt international definitions and to group them as below:

- Concerning hydro generation :
 - o Run of river and poundage hydro plants
 - o Reservoir and pumped storage hydro plants.
- Concerning coal:
 - o Hard coal = traditional coal