

To:
Konstantin Staschus,
ENTSO-E Secretary General
Avenue de Cortenbergh 100
1000 Brussels

Brussels, 10 September 2013

Subject: EFET comments on the Draft ENTSO-E Work Programme 2013-2014

Dear Konstantin,

On behalf of EFET, I would like to thank you for this opportunity to comment on the Draft ENTSO-E Work Programme 2013-2014. While we generally agree with the main elements identified as work priorities for ENTSO-E, we would like to bring to your attention a number of observations or concerns of market participants.

1. **Role of ENTSO-E and TSOs in the network codes comitology process:** The Work Programme mentions on page 3 that *“the timing of the Comitology proceedings for the various network codes is more uncertain than anticipated, and the amount of Member TSO and Secretariat experts needed to **explain** certain network code provisions before and during Comitology is also only a rough estimate.”* Though market participants value TSOs’ input in the network codes drafting and adoption process, we believe that the exercise as a whole is meant to fulfil Regulation 714/2009’s objectives of *“non-discrimination, effective competition and efficient functioning of the market”*¹ while ensuring system security. The network code drafting process has often given the impression, that market participants’ concerns were not appropriately considered and that ENTSO-E was rather pushing TSOs’ views. As a consequence, parts of the network codes’ wording fail, in our view, to reflect the core principles of the Regulation. The use of the word “explain” rather than “discuss” in the work programme is perhaps symptomatic of the underlying mindset.

Likewise, page 6 of the Work Programme mentions that *“ENTSO-E consults fully and effectively including **responding** to comments received via workshops and public feedback”*. This, we believe, shows the laudable efforts of ENTSO-E to create a

¹ Regulation 714/2009/EC, Article 6.

framework for stakeholder interaction but also reflects the actual outcome of this interaction. For the most part the outcome consists of a top-down clarification of ENTSO-E's (or, more precisely, TSOs') point of view, rather than a proper justification thereof or a comprehensive accommodation of valid needs of wholesale market participants.

We sincerely hope for a change of paradigm in ENTSO-E's approach during the drafting and comitology processes and when it comes to later code modifications. ENTSO-E was after all designed "*to promote the completion and functioning of the internal market in electricity and cross-border trade and to ensure the optimal management, coordinated operation and sound technical evolution of the European electricity transmission network*"². It is therefore the role of ENTSO-E to consider and balance the views of TSOs on the one side and all involved stakeholders on the other side, and avoid a natural bias of TSOs to introduce stricter obligations for market participants and looser obligations for themselves when drafting new rules.

- 2. Regulatory framework for coordinated cross-border re-dispatch and countertrading:** we agree with ENTSO-E's view that tackling this issue is important both from a market and a network security perspective. However, we believe that before considering any regulatory change, a mechanism for joint actions and cost sharing between TSOs should be implemented, starting with bilateral and regional cooperation arrangements. Market participants would welcome a report from ENTSO-E on the type of cooperation agreements which could be implemented by the end of 2013 and/or by mid-2014 in addition to the solution currently tested at the German-Polish border.

Considering the ENTSO-E pilot project on the analysis of the current bidding zones, EFET believes that stakeholder engagement, as mentioned on page 8, is currently lacking. A first consultation of wholesale market participants on the approach and criteria for this analysis should already have been completed. EFET expects the delivery of an interim status report to AESAG in the autumn of 2013, followed by regular updates up to the end of 2014.

- 3. Long-term market design:** EFET would appreciate more detail on what ENTSO-E means with its reference to "*future power systems*" on page 8. What exactly are the challenges they pose to the current market design, beyond the mentioned intermittence of RES-E output? We believe that the design of "*appropriate market mechanisms and investment incentives*" should surely not be started before initial discussions are held with wholesale market participants and trading platform

² Regulation 714/2009/EC, Article 4.

operators. Any exploration of alternative market designs should include market participants and trading platform operators from the start to make sure that all parties agree on common criteria for a potential redesign.

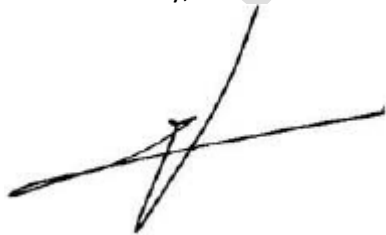
4. **RES support schemes and capacity mechanisms:** we welcome ENTSO-E's support for "*market-based approaches*" in its thinking exercise for alternative RES support and capacity adequacy solutions, as presented on page 8. But we would have expected the addition of a statement that ENTSO-E's efforts will favour a pan-European, harmonised approach. In our view it is essential that the next evolution of RES-E schemes obliges governments, regulators and TSOs to make market mechanisms function across national borders and borders of bidding zones. This can best be achieved by ensuring that the renewal attributes of any subsidised output of electricity are tradable across such borders independently of the electricity itself.
5. **Challenges of financing infrastructure:** when it comes to financing infrastructure, we believe that ENTSO-E should be careful to distinguish what falls under its statutory mandate and what does not when considering what is "*vital*" (page 8). EFET believes that infrastructure improvement has a greater meaning than solely building more infrastructure. Congestion needs to be addressed by TSOs by making sure that enough existing transmission capacity is made available to the market in the first place. The lowest cost option to do so is to make sure that existing transmission assets have been used to their maximum extent, in all timeframes. The expansion of the transmission grid with the objective to avoid structural congestions, ideally using accumulated congestion revenues to finance those projects, is nonetheless important for a well-functioning market, and therefore for the efficient integration of renewables. Infrastructure investments with other aims, however, should be seen as conducted as part of the commercial activity of TSOs and any related ENTSO-E advocacy should be identified and funded as such.
6. **Transparency:** we welcome the developments linked to the Transparency Regulation and the new Transparency Platform, but we would caution ENTSO-E against shutting down the existing platform in November 2013, as mentioned on page 9, before the new platform has been properly tested for some months by all market participants. Any ENTSO-E platform must accommodate the granularity and timescales involved in generators' disclosure obligations under the Transparency Regulation and also the obligations of suppliers and traders according to the inside information provisions of REMIT.
7. **Electronic Data Exchange:** while the Work Programme underlines that "*ENTSO-E will continue to develop and maintain the detailed descriptions of common business processes and 'role models', in formats which are easily understood and implemented*

by the software industry". EFET urges ENTSO-E to use and make available for regulatory reporting purposes under REMIT and EMIR the data formats which market participants have developed in partnership with ACER and ESMA for market participants' compliance obligations. Market participants already face the threat of costly and cumbersome multiple reporting of transaction related data to different recipients; creating new data formats would only add to that burden.

8. **Quality of frequency:** we welcome ENTSO-E's research into quarter-hourly products and would support cross border nominations of 15 minutes and 30 minutes products in order to couple all markets in lower granularity products, with no obligations in terms of harmonisation of the minimum time period at this stage. The development of lower granularity products, which currently exist in intraday markets, is a direct consequence of the increased volatility of power injections, which goes along with the development of RES. The analysis to be performed by ENTSO-E on these topics should be communicated to all market participants and any subsequent proposal should be consulted with the market.
9. **Legal and Regulatory Group activities related to network codes:** from an outsider point of you, we perceive the interaction between the LRG and the network drafting teams mentioned on page 21 as non-transparent and rather sub-optimal. The outward facing ENTSO-E teams tasked with handling consultation on network codes often cite limitations set by the LRG, which seem unreasonable and/or unnecessary. Given the fact that the European Commission legal service is not proving to share the views taken by the ENTSO-E LRG on some fundamental aspects of codes, a closer cooperation between those groups should be considered.

Rest assured that these remarks are expressed in the spirit of a constructive relationship between ENTSO-E and EFET. Should you have any questions or points you would like to raise with us, please do not hesitate to contact the EFET Secretariat.

Yours sincerely,



Jan van Aken
Secretary General