



Amstelveenseweg 998

1081 JS Amsterdam

Phone: + 31 20 520 7970

Fax: + 31 346 283 258

Email: secretariat@efet.org

Website: www.efet.org

To the attention of:

Mr Maroš Šefčovič,
Vice-President, Commissioner for Energy Union

Mr Miguel Arias Cañete,
Commissioner for Climate Action & Energy

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Via Electronic Mail

Advancing the EU internal energy market: sector priorities for the Juncker Commission

An EFET Position Paper

Introduction

The European Federation of Energy Traders (EFET¹) takes this opportunity to congratulate Mr Jean-Claude Juncker, Mr Maroš Šefčovič and Mr Miguel Arias Cañete upon the inauguration of the new College of Commissioners. At this important juncture, we call upon the Commission to renew and reinforce its programme to complete the single market in energy and to tackle the challenges of decarbonisation, expansion of renewable sources, import dependency and generation adequacy using a consistently market-based approach. EFET has much appreciated working closely with Commission services over the past fifteen years to help formulate policies which foster competition in

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information, visit our website at www.efet.org.

the energy sector and liquidity in the wholesale power and gas markets. We look forward to continuing this cooperation.

Regrettably, several policy and legislative initiatives of importance to the internal energy market remain off track, partly owing to complexity of implementation, partly owing to unhelpful interventions in some Member States. Overlaid on these challenges are some governance and competence questions. We set out in this paper priority areas of policy, regulation and market design, to which we urge the Commission to pay attention over the next five years. At stake is nothing less than the survival of the traded energy markets, as a cornerstone of a successful liberalisation of the electricity and gas sectors.

We list priority areas under the following headings:

1. Climate change, emission allowances and renewable electricity;
2. Achieving energy security of supply in a market context;
3. Developing markets for flexibility in the context of intermittent generation;
4. Effective bundling of gas transmission capacity;
5. Transparency and predictability in setting gas transmission tariffs;
6. A beneficial co-existence of exchange based and OTC wholesale trading;
7. Organisation of gas trading hubs;
8. A new governance framework to deliver a truly European market design;
9. The legislative and regulatory framework needed to underpin wholesale market integrity.

1. Climate change, emission allowances and renewable electricity

The combination of the climate action and energy portfolio under the responsibility of a single Commissioner in the Juncker Commission is a unique occasion to bring coherence between climate action and energy policies.

Over the past ten years, the deployment of power generation from renewable energy sources (RES-E) supported in large parts by uncoordinated national feed-in tariffs has contributed to the declining relevance of wholesale electricity markets and prevented the EU Emissions Trading System (ETS) from delivering appropriate signals for low-carbon investments.

EFET urges the new Commission to work on the following priorities over a five-year time horizon:

- Strengthening the EU ETS as the central instrument to deliver low-cost, market-based low-carbon investments. Measures of early importance will be setting an ambitious carbon reduction target applicable to all carbon-intensive sectors post-

2020, and by implementing Market Stability Reserve reform, which promptly transfers back-loaded allowances into a reserve, before bringing them back to the market.

- Coordinating and supervising the compatibility and side effects of national RES-E support schemes. Measures needed include stronger scrutiny of Public Service Obligations under Article 3 of the Directive 2009/72, strict enforcement of the EEAG (state aid guidelines), and examination of support schemes to ensure they do not infringe the Treaty by restricting trade between Member States.
- Leading Member States towards providing non-distortive, market-based RES-E support schemes allowing cross-border trade of RES-E attributes, wherever and as long as financial support for RES-E is deemed necessary and justified.
- Making RES-E generators balance responsible and exposing them to re-dispatch and congestion management rules.

For more information: [EFET response to the European Commission Green Paper on the 2030 framework for energy and climate policies](#)

2. Achieving energy security of supply in a market context

Well-functioning, liquid energy markets providing reliable forward price signals are key to securing energy supplies. EFET has confidence that improved transparency, consistent non-discriminatory access to transportation networks and cross-border capacity, and appropriate balancing arrangements will improve the conditions for the development of traded markets in gas and electricity and enhance the ability of the market to maintain security of supply efficiently. EFET would also like to be part of further elaboration of the Energy Union concept, should its implementation be further investigated.

EFET urges the new Commission to work on the following priorities over a five-year time horizon:

- Pressing for a genuine commitment by the TSOs, under the oversight of national regulators, to fully comply with the EU transparency requirements. Any further prevarication by TSOs and institutional delay should be avoided.
- Ensuring non-discriminatory access of all market participants to transportation and storage infrastructure, i.e. providing easy access to and from storage as well as the ability to nominate and re-nominate the use of storage and pipeline interconnection capacity between markets; promoting self-dispatch in electricity and phasing out priority access and dispatch for renewable energy installations.
- Promoting the development of a methodology for the completion of flexibility and adequacy assessments at a European level and exercising control on the justifications for national, non-market-based interventions.
- Steering the debate on the Energy Union with the objective that any common gas purchasing arrangements would not be centrally planned, would honour the

principle of transmission unbundling, would respect anti-trust rules and would comply with normal trading hub procedures.

For more information: [EFET Letter to European Commission's President Barroso regarding Polish Proposal for a European Energy Union](#); [EFET Letter to Dominique Ristori, Director General for Energy, regarding Energy Security stress tests](#), and [EFET observations on the European Commission Communication 2013/7243 of 5 November 2013 \(self-dispatch vs. central dispatch\)](#).

3. Developing markets for flexibility in the context of intermittent generation

With a growing penetration of RES-E throughout Europe, the need for flexible generation sources and demand response is equally growing. The debate on capacity remuneration mechanisms (CRM) has introduced confusion between adequacy and flexibility needs in many Member States. The European Commission has a central role to play to rationalise this debate and promote market-based flexibility tools.

EFET urges the new Commission to work on the following priorities over a five-year time horizon:

- Exercising control, through the EEAG (state aid guidelines), on the justifications for Member States decisions to implement CRMs and ensuring that the need for flexibility and the overall adequacy of generation capacity and demand are judged separately.
- Promoting the development of a methodology for the completion of flexibility and adequacy assessments at a European level.
- Ensuring that forward markets can provide the right price signals to build, maintain and operate flexible generation assets, i.e. by removing price caps/floors to allow prices to peak in a liquid wholesale market.
- Contributing to the development of consistent reserve procurement and balancing price signals, i.e. allowing generation and demand to compete across borders on a set of compatible products in all balancing markets in Europe.

For more information: [EFET Discussion Paper on Capacity Remuneration Mechanisms](#) and [Position Paper on Efficient Electricity Balancing Market Design and Integration](#).

4. Effective bundling of gas transmission capacity

Contracts for capacity across pipeline Interconnection Points must be made consistent by the TSOs on either side of the border. The Capacity Allocation Network Code for gas requires that the exit capacity from one TSO system is combined with the entry capacity into the adjoining TSO system. Unfortunately the TSOs are not under a sufficiently strong obligation to make the terms and conditions of these contracts consistent before they are bundled together. At best this leads to inefficient use of capacity, at worst there

may be hidden systemic risks that will propagate and multiply throughout the EU as these inconsistent capacity products are traded in secondary markets.

EFET urges the new Commission to work on the following priorities over a five-year time horizon:

- Addressing the issue of bundling inconsistent capacity products urgently, namely reviewing the proposals for possible harmonisation to be offered to the Commission and ACER by the joint EFET/ENTSOG ad hoc work stream later this year.
- If this problem is not resolved urgently, a new EU Network Code to define a consistent set of terms for TSO firm capacity sales will be required.

5. Transparency and predictability in setting gas transmission tariffs

Reserve prices, when necessary for gas capacity auctions at Interconnection Points, must allow new entry and avoid market distortions. A “fit for purpose” Tariff Network Code (TAR NC) is of crucial importance to EFET members and to the efficient functioning of competitive EU gas markets. Despite a few positive signs there is still a long way to go.

EFET urges the new Commission to work on the following priorities:

- The TAR NC must provide a credible and efficient basis for future tariff setting throughout the internal energy market, but currently it falls well short of this requirement. Of particular importance is the need for full transparency about all aspects of tariff setting by TSOs and NRAs and publication of the reserve prices and other details relevant to bundled capacity auctions prior to the first annual auction each year.
- A one-off capacity reset mechanism needs to be developed so that everyone with existing capacity bookings can acquire and utilise capacity consistent with the new EU rules. This will ensure that network users compete for capacity on an equal basis, avoiding any discrimination, and will put the capacity regime on a sustainable basis for the future.

6. A beneficial co-existence of exchange based and OTC wholesale trading

The combination of financial regulation applicable to energy markets such as European Markets Infrastructure Regulation (EMIR) and a move of day-ahead electricity trading towards market coupling is pushing market participants towards exchange based wholesale trading, in particular in electricity markets.

Over-the-counter (OTC) wholesale markets still concentrate the majority of gas and electricity liquidity and trading in Europe, supported by the state-of-the-art transparency requirements of the EU Regulation on wholesale energy market integrity and

transparency (REMIT) and the Transparency Regulation. Brokers offer clearing services and price visibility to buyers and sellers just as exchanges do. The Commission should guarantee the valuable coexistence of OTC and exchange based trading in a spirit of sound competition.

EFET urges the new Commission to work on the following priorities over a five-year time horizon:

- Providing a level-playing field at regulatory level between OTC physical trading and exchange based transactions;
- Guaranteeing that transmission capacity allocation arrangements, including market coupling, should not discriminate against OTC trading platforms nor against market participants wishing to make physical nominations to TSOs of their own.

7. Organisation of gas trading hubs

EFET welcomes the improved monitoring of gas hub development and emphasises the importance of establishing liquid spot markets in each balancing zone. The EU Balancing Network Code for gas sets out a clear vision of market-based balancing at a single virtual trading point inside an entry-exit system. Individual imbalances are cashed out daily at a local market price. This requires a well-functioning local balancing market. Achieving this throughout Europe should be the primary objective, rather than trying to design trading hubs by regulatory intervention.

EFET urges the new Commission to work on the following priorities over a five-year time horizon:

- Continue pressing for all TSOs/NRAs to publish their plans for implementing the Balancing Network Code to ensure consistent market-based balancing across Europe. If a target level of liquidity is not met, then the first step should be to ensure that the essentials have been put in place (e.g. near real-time information provision by TSO, proper functioning of entry/exit system as set out by EC/DNV/KEMA, consistent firm capacity contracts across borders, one OSBB scheme at Interconnection points etc...); Addressing the failure of many TSOs to provide near-real-time information on gas flows or hourly updates of the amount of gas in their pipelines are examples of enforcement action that should be taken now that would immediately help the development of the market.

For more information: [EFET Guide on the features of a successful VTP and the outcomes of our European Gas Hub Development Study.](#)

8. A new governance framework to deliver a truly European market design

The Third Energy Package implementation architecture setting up ACER and the ENTSOs has a number of benefits, including a leadership role of ACER in the harmonisation of national policies in view of the establishment and functioning of the internal energy market. However, the experience of the drafting of network codes has proven that this European vision is still largely absent in the work of the ENTSOs.

EFET urges the new Commission to work on the following priorities over a five-year time horizon:

- Strengthening the role of ACER in relation to the national regulators, i.e. giving ACER the power of initiative when a conflict of views arises between regulators; and in relation to the ENTSOs.
- Reforming the governance of ENTSO-E so that out of it emerge two new bodies:
(i) a statutory institution run *by* TSOs but solely *for the good of* the internal power market and the common operation of the inter-connected HV network, with a tight mandate revolving around network code elaboration and enforcement, and where key decisions are not taken by a vote at a general meeting of all member TSOs; and
- (ii) a European association of TSOs promoting their common interests and contributing transparently (alongside other stakeholders) to consultations conducted by ACER, the Commission and the new statutory institution described under (i).
- Ensuring a consistent institutional approach for electricity and for gas. Whilst there is already a distinction between GIE and ENTSO-G, governance reform is still required to ensure that ENTSO-G functions as an institution charged with a strict mandate related to furtherance of the single gas market, rather than being guided by the interests of the owners and operators of the HP pipeline networks.

For more information: [EFET response to the ACER public consultation on «European Energy Regulation: A Bridge to 2025»](#).

9. The legislative and regulatory framework needed to underpin wholesale market integrity

The financial crisis started in 2007 has led to the necessity of tightening the framework around financial transactions. While energy markets are also impacted by legislation such as MiFID and EMIR, specific commitments have been made by the Commission to accommodate the needs of energy market participants with regard to legislation pieces that were designed for financial markets, and to avoid redundancies with REMIT. The role of the Vice President for Energy Union creates useful opportunities for increased cooperation, in particular between DG MARKT, DG ENER and DG

CLIMA. This is essential to ensure that financial regulation does not undermine competitiveness, investment and growth in the energy market.

EFET urges the new Commission to work on the following priorities over a five-year time horizon:

- Ensuring that REMIT remains a bespoke robust framework for the protection of integrity and transparency which is tailored to the characteristics of Europe's physical energy markets and that their efficient operation are not adversely impacted by the reform of the financial markets.
- Overseeing the development of secondary legislation by ESMA, in coordination with the Commissioner responsible for the internal market, in order to ensure the fair development and implementation of secondary legislation for MiFID (II) and EMIR (I and II).
- Avoiding duplication of transparency and reporting obligations between REMIT and other European legislation.
- Avoiding duplication of transparency and reporting streams between ACER and national energy and financial regulators.

Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping, fluid strokes that form a stylized, abstract shape.

Jan van Aken

Secretary General,

European Federation of Energy Traders

CC: *Mr Dominique Ristori,
Director General for Energy, European Commission*

*Mr Christopher Jones,
Deputy Director-General, Directorate-General for Energy*

*Mr Klaus-Dieter Borchardt,
Director Internal Energy Market, European Commission*