

# ACER pre-consultation on “Energy Regulation: A bridge to 2025”: Consumers & Distribution Networks paper

## Contribution by Enel

### 1. Do you think that further European level measures should be taken to enhance the operation of retail markets to the benefit of consumers?

As a preliminary comment, we would like to point out that retail markets and consumers, especially in the energy sector, really tend to have national specificities that need to be harmonised but not necessarily uniformed.

This is why we will only address some issues we deem pertaining to a consultation led by an institution such as ACER whose focus is cross border issues and cooperation among national regulators.

To this end, the principles of transparency, awareness and energy literacy are crucial to have an informed European debate and take forward-looking policy decisions to the benefit of final customers through a well-functioning retail market.

Current European legislation already lays down some sound basis for the good functioning of retail markets. That’s why at the current stage of development of regulation, *enforcing* seems more appropriate and urgent than *enhancing*. In fact, disappointingly, the 3<sup>rd</sup> energy package regulations are not yet completely fulfilled by Member States, especially as far as retail market is concerned.

This is particularly true with reference to transparency and cost-effectiveness of prices, which should become major concerns for energy regulators and policy-makers in years to come.

This requires setting up a framework which provides effective price signals to customers, so to let them balance and manage their consumption based on the actual cost of providing energy in one specific place, at a specific moment.

Final prices are made up of several components, some of which are subject to the dynamics of competition, some are not.

Evidence is showing that competition in the energy markets has been fruitful, but benefits have not at all been perceived by final customers. As a matter of fact, the drivers of increasing prices over the last few years have been those components which are not under direct control of the electricity market players (policies to support specific generation resources, other levies and taxes). Conversely, since the introduction of heightened competition in wholesale markets, electricity supply costs have only evolved in line with inflation.

Analyses made by Eurelectric show that, as of today, only 43% of the average European retail price is driven by market dynamics.

After all, we think the very issue of *enhancing* may sound ill posed. How do we get to a full-functioning market when almost half of the final bill is unrelated to the actual cost of producing and delivering electricity? Energy bills should reflect only wholesale prices, transporting, distributing and commercializing electricity. All other costs (incentive schemes, subsidies, general purpose funds and other levies) should be removed and paid through other means, such as general taxation.

As a related and consequent concern, we wish to raise the issue of regulated prices. Despite the pleas from EU institutions, several European countries have taken no real action to overcome

“blanket price” regulation and retail price cap mechanisms, which typically lead to underpriced or at least non cost-reflective tariffs.

Blanket price regulation suppresses retail competition, reduces consumer choice, jeopardizes the development of demand response, energy efficiency and ultimately the well-functioning of the energy market. Regulating tariffs is not a welfare maximizing policy.

Blanket price regulation is often misused as a means to protect final customers, when protection should be ensured through other policy tools. Whenever social policy issues are tackled through energy (price) policy, future distortions are bound to be faced up.

Member States should focus on protecting smaller subsets of consumers in real need of support (vulnerable customers). One good approach to protect such groups while safeguarding competition and cost-effectiveness is to use discounts on electricity prices. In fact, as compared to regulated tariffs, so called social tariffs are generally to be preferred as they have a much less distortive effect. But again, the costs associated to vulnerability mechanisms should be socialized among tax payers and not be supported by electricity operators or consumers.

#### *Engaging customers: clarity and simplicity*

Customers should be provided with clear and transparent information on why they pay what they pay. Too rigid rules and procedures may hamper innovation and discourage companies from developing new products, thus reducing customer choice and incentives to engage within the market.

It is up to market parties to translate the complexity/sophistication of the market into the simplicity that customers want, by ‘packaging’ attractive products, as a feature to compete on.

Instead, the focus of policymakers and regulators should be dedicated to facilitating market operators in providing a set of limited, fundamental and meaningful data for customers.

In fact, obligation upon suppliers to provide indiscriminately detailed and unnecessary information often leads to bills made of multiple lengthy pages that customers won’t read nor understand.

## **2. Can you suggest ways in which we could enhance the voice of consumers in the development of Europe’s energy market?**

Once again, transparency, awareness and energy literacy are crucial to engage Europe’s energy consumers in the development of Europe’s energy market.

Member States, National Regulatory Authorities, businesses and consumer associations should all take action to facilitate trust and engagement in consumers, mainly through information campaigns, market monitoring, and best practice sharing.

Policy and lawmakers have a key role in fostering understanding of the energy market and the challenges the industry is facing. In particular, Members of the European Parliament should contribute to ensure that a debate on energy policy happens at all levels and spread it within their Countries boundaries.

## **3. What are the main questions that you consider the proposed CEER review should address with regard to the future role of DSOs and also to ensure that the regulation of distribution networks remains fit for purpose in 2025?**

As a general and main comment, distribution systems are very much country specific. Regulation of this sector needs to ensure the subsidiarity principle to adapt to national peculiarities.

### *Unbundling*

Besides, also for distribution systems, *enforcing* seems more urgent than *enhancing*. In fact, disappointingly, the 3<sup>rd</sup> energy package regulations are not yet fully fulfilled by Member States.

Current European regulation sets a level of unbundling for DSOs that seems sound and appropriate to ensure neutrality and non-discrimination for the years to come. In fact, the much debated “new downstream” business still needs to prove its characteristics and needs, so a “hands on” fact-based approach seems more policy-efficient.

### *Data management*

The nature and core business of DSOs seems to make them the most suitable actor to rely on when addressing the issue of data management in the electricity sector.

Distribution systems are already well regulated and provide very high levels of monitoring and security. Entrusting data management to some other actor may lead to lower levels of security and protection. Moreover, leveraging on DSOs as market facilitators allows for the best exploitation of scale and scope economies.

### *Network tariffs*

When designing network tariffs, some principles must apply to whatever new market arrangement:

- Network tariffs should always grant DSOs all their allowed operating and capital costs, in a transparent and cost-reflective manner. The complete roll out of smart meters will facilitate cost reflective tariffs as they allow load profiling of end customers;
- cross-subsidies between different categories of users should be removed, ensuring that customers pay for the actual cost of service;
- fixed and variable network charges are balanced to grant DSOs an adequate, stable and cost-reflective stream of revenues (for example by increasing the weight of the fixed capacity component on the overall network tariff).

Particular attention must be paid to the phenomenon of microgrids and private networks, which should be very closely monitored. The very sustainability and stability of the system is endangered if no action is taken to guarantee that all customers who benefit from being connected to the distribution grid pay the actual value of the service. To avoid allocative distortions, tariff structures based on capacity instead of volume should be preferred.

As for the future challenges - mainly related to the smart evolution of the grid - regulators, policy-makers and stakeholders will need to figure out mechanism which promote innovation and facilitate new investment in the (smart) grid, such as allowing WACC premiums to DSOs for specific innovative projects, granting separate cost allowances for R&D when setting price caps on OPEX, or tendering for innovation funds.

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