EnergyNorway

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Ministry of Petroleum and Energy, OED
Postboks 8148 Dep
0033 Oslo

Johan Vetlesen

EU-EEA. Energy/electricity. Consultation regarding Commission Regulation (EU) No 774/2010

With reference to your letter dated September 24th 2010 regarding the implementation of COMMISSION REGULATION (EU) No 774/2010 of 2 September 2010 on laying down guidelines relating to inter-transmission system operator compensation and a common regulatory approach to transmission charging, Energy Norway welcomes the consultation.

Energy Norway has for several years worked on the topics of Inter TSO Compensation (ITC) and harmonisation of transmission charges and would like to comment on these issues, the consultation process and Norwegian stakeholder involvement during the commitology process.

<u>The ITC mechanism</u>

As stated in several earlier documents sent to the Norwegian Ministry, the Regulator, the TSO, ENTSO-E and the European Commission, Energy Norway disagrees with the concept of the ITC mechanism. This mechanism could lead to adverse incentives regarding future investments (domestic and cross border) and represents a very complex and unfair redistribution of costs compared to benefits incurred by cross border trade of electricity. In addition, the introduction of the fund introduces a new risk that the mechanism may swell in the future increasing the negative effects for cross border trade.

However, in order to resolve pending issues (e.g. the need for harmonizing network charges) and move forward on more important matters regarding European market integration, we believed that the proposed solution was acceptable as long as the mechanism was restricted to compensation for losses and that the fund was kept low.

Energy Norway P.O Box 7184 Majorstuen, N-0307 Oslo Tel: +47 23 08 89 00 Fax: +47 23 08 89 01
E-mail: post@energinorge.no www.energynorway.no

Tariffication harmonisation

The sole reason for introducing tariffication guidelines some years ago was to harmonize network charges throughout Europe and create a level playing field for the market participants in the future up-coming integrated European power market. The Commission proposal, drafted after a long and thorough process of public consultations, was a step in the right direction. Unfortunately, in the final decision making stage in the commitology process, alterations where made, which lead away from European harmonization by allowing increased differences between G charges for different regions and countries. The allowed interval for the fixed element of the G charges in Sweden, Finland and Denmark was increased from 0 - 0.7 €/MWh to 0 - 1.2 €/MWh, compared to Continental Europe where the interval is restrained to 0 – 0.5 €/MWh. This change allows an increasing spread in the network charges and hampers the creation of a level playing field contrary to the original aim of the proposal.

The Norwegian TSO (Statnett SF) has indicated that they intend to increase Norwegian G-charges to the maximum level given for the specified Nordic countries (Sweden, Finland and Denmark). This will give Norwegian producers the one of the highest G charges in Europe and increase competition barriers compared to the other generators in the Nordic countries and Continental Europe.

In an open market with different G-charges, increases for only some generators will not be possible to recover by increasing sale prices on energy, hence a potential Norwegian increase will result in a reduced income for the owners of the power producers and a reduced competitiveness for the business.

In the initial guidelines subject to public consultation G-charges were directly linked to the Nordic countries, hence including Norway. In Regulation No 774/2010 this is changed and the interval of 0 – 1.2 €/MWh is linked directly to Sweden, Finland and Denmark. Norway is not mentioned. With Norway's increasing capacity towards Continental Europe (NorNed I and the planned interconnectors NorGer, NorLink and NorNed II) it is logical, with respect to the initial intentions of the Regulation, that Norway is subject to the general rule of the Regulation, i.e.

"*The value of the annual average transmission charges paid by producers shall be within a range of 0 to 0,5 EUR/MWh, except those applying in Denmark, Sweden, Finland, Romania, Ireland, Great Britain and Northern Ireland*".

The process and Norwegian stakeholder involvement

As already mentioned the initial proposal from the Commission on the revised guidelines for tariffication represented a step in the right direction regarding increased harmonisation of tariffs throughout Europe and the creation of a more level playing field for market participants.

During the final process within the Commission, the Norwegian Ministry of Petroleum and Energy, as stated in your letter, actively worked to change the guidelines in order to increase G charges in Norway in collaboration with the Norwegian Regulator and TSO. As far as we know this was done without Norwegian stakeholder participation or consultation.

There are close bonds between the Norwegian Ministry, the Regulator and the TSO (the Regulator is fully controlled by the Ministry and the TSO is a 100% owned by the Ministry). Furthermore the Ministry, Regulator and TSO have a direct influence on the EU processes through ERGEG, CEER/ACER and ENTSO-E.

We are concerned that stake holder interests are not properly taken care of. In order to do so process transparency, stakeholder involvement and neutrality is imperative.

As far as we can see there are no fundamental reasons based on the initial intentions of the guidelines that supports the alterations made. In fact it seems that this is done regardless of future harmonization. It is in our view unfortunate that stakeholder involvement on important issues so easily can be set aside without any explanation or justification.

Best regards
Energy Norway

Einar Westre

Einar Westre
Executive Director Networks and Markets
ew@energinorge.no

Copy: Norwegian Ministry of Finance, European Commission