Position Paper of CEZ, a. s. on the CESR and ERGEG advice to the European Commission in the context of the Third Energy Package Draft response to Questions D.4 to D.6 – record record-keeping Questions E.11, E.18 and E.19 – transparency Questions D.7 to D.10 – exchange of information Consultation Paper

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I. Introduction

CEZ, a. s. (hereinafter referred to as “CEZ”) welcomes the opportunity given by the ERGEG to all interested parties to comment the text containing CESR and ERGEG advice to the European Commission in the context of the Third Energy Package - Draft response to questions D.4 to D.6 – record record-keeping, questions E.11, E.18 and E.19 – transparency and questions D.7 to D.10 – exchange of information within the Public Consultation process.

In this paper CEZ has specified some general issues that could be addressed in this regard.

II. Specific comments of CEZ

Recordcord-keeping (Section I)

D.4: Do regulators believe that there should be a difference between the proposed record keeping obligations under the proposed amendments to the Electricity Directive and Gas Directive and the existing record-keeping obligations with respect to transactions in electricity and gas derivatives to which investment firms are subject by reason of MiFID (Article 25 and 13(6))?

Question for the regulators; anyhow, general standpoint of CEZ is that new obligations would generally incur additional costs that could possibly lead to energy prices rise and would hardly have any positive effects for final consumers or market competitors

D.5: Pending the outcome of the legislative process in respect of the proposed Directives amending Directives 2003/54/EC and 2003/55/EC (the Third Energy Package), what methods and arrangements for record-keeping do CESR and ERGEG consider the Commission should specify as guidelines under the legislation for:
a) transactions in electricity and gas supply (spot) contracts? (To the fullest extent possible this should be a harmonised specification.) If there are any deviations from the obligations relating to commodity derivatives already applicable to investment firms, these should be justified;
b) transactions in electricity and gas derivatives contracts? (To the fullest extent possible this should be a harmonised specification.) If there are any deviations from the recommendations in a), these should be justified.
In answering this question, CESR and energy regulators are asked to consider specifying a single transaction record format based on the content and data to be provided as per Table 1 of Annex I of Regulation E EC 1287/2006.

See response to the Question D.4; CEZ considers the actual methods and arrangements for record keepig as sufficient and further obligations could cause additional costs for market participants and competent authorities and final consumers would hardly have corresponding benefits.

D.6: How would this information be most efficiently kept at the disposal of authorities as mentioned under paragraph 1 of Articles 22f/24f in the case of spot transactions and non-investment firms?

We call for a reasonable extent of recorded information with relevant importance for the stakeholders.

Transparency (Section II)

E.11: What guidelines and arrangements do energy regulators propose for the making available of aggregate market data by them under paragraph 3 of Article 22f/24f?

Question for the regulators; anyhow, general standpoint of CEZ is to take into consideration costs and benefits of aggregate market data

E.17/ E18: Is access to information on traded volumes and prices equal for all parties active in [the electricity and gas wholesale] market? If not, is unequal access to or general lack of information on trading causing distortion of competition?

CEZ holds the view that all necessary important information are already being published and there exists equal access to information in the electricity and gas wholesale markets, perhaps with the exception of bilateral trading.

E19: In light of the findings in the Commission Sector Inquiry on energy and the subsequent study of the electricity wholesale markets, please consider:
a) whether, pending the outcome of the legislative process in respect of the proposed Directives amending Directives 2003/54/EC and 2003/55/EC, greater EU-wide pre- and/or post-trade transparency rules for electricity and gas supply contracts (physical and spot trading) and electricity and gas derivatives would contribute to a more efficient wholesale price formation process and efficient and secure energy markets;
b) whether such transparency arrangements could be expected to effectively mitigate the concerns identified in the Sector Inquiry above;
c) whether uniform EU-wide pre- and post-trade transparency could have other benefits;
d) whether additional transparency in trading could have negative effects on these markets, for example could liquidity in these markets be expected to decrease? Is there a risk that trading could shift to third countries to escape regulation?
e) If you believe that there are risks arising from additional pre- and post-trade transparency requirements, how do you believe that these risks can be mitigated (e.g. aggregation, delay in publication, anonymity)?

CEZ holds the view that different options in relation to trade transparency should be considered. Uniform EU-wide pre- and post-trade a transparency for electricity and gas supply contracts (physical and spot trading) and electricity and gas derivatives could be useful, but extensive data volume would bring additional costs that would have to be paid by final consumers and the effects for the consumers and competitors would hardly correspond to the additional costs they would have to pay.

Exchange of information (Section III)

D.7. How would securities regulators most efficiently provide information to energy regulators pursuant to paragraph 7 of Article 22f/24f?

Under actual circumstances the Czech Energy Market Operator discloses information on the current market participants list, short-term & balancing market, annual and monthly reports, daily and monthly settlements of imbalances and long-term balances in the Czech Republic. If anyone needs more pre- and post trade information, there is an online web portal with actual production data and other information of all important power plants. Energy regulator has thus even now enough information for his activities.

D.8. Which securities regulator would most efficiently be responsible for such provision in the case of investment firms with more than one branch?

Inter-branch information exchange can hardly be fully covered by the Energy Market Operator and proper mechanism should be very carefully designed on the electronic basis. Any functional entity operating on minimum necessary data volume would be the objective. However, different legal and practical obstacles in various member states can occur.

D.9. Would it be feasible and efficient to employ the Transaction Reporting Exchange Mechanism (TREM) or a similar electronic system to exchange this data?

See the remarks under D.8

D.10. Is there a case for data to be forwarded from energy regulators to securities regulators on an automatic basis? If so, what data?

At the initial stage of the process we do not see the necessity to forward information between the institutions on an automatic basis.