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EPEX SPOT's key recommendations to the ACER consultation on Demand Response Barriers

2nd February 2024

Paris

1. Promote more strongly and clearly the market-based flexibility procurement of congestion management services by system operators.

- We welcome ACER's assessment of the national implementation of Art. 13 and Art. 32 Clean Energy Package. We strongly support the recommendations to introduce a transparent national process to assess whether market-based redispatch can be used, to provide a regulatory framework setting incentives for DSOs for market-based flexibility procurement, and to introduce an iterative process to review whether exceptions from market-based redispatch have become inapplicable. In addition, ACER concludes that "when it comes to the DSO level, there is lack of information on the reasons for not implementing market-based redispatching". EPEX SPOT therefore suggests that the reasons for not implementing market-based redispatching shall be made public in all member states.
- Furthermore, we suggest that DSOs and TSOs shall establish and publish on a regular basis a cost assessment about the cost-savings of market-based procurement compared to non-market based procurement, such as reduced redispatch costs, reduced or deferred grid investment costs, reduced grid operation costs. This will bring more transparency about the choice for or against market-based flexibility procurement and lead to better choices.
- In addition, it is important to consider that the national transposition of Art. 32 of the Electricity Directive can sometimes differ from the reality. What do we mean by this? It is important to have a close look at the national implementation of Art. 32 and whether the national law really enables/ allows the market-based flexibility procurement in practice. The devil can be in the detail here. Let's take the example of Germany: Germany formally transposed Art. 32 of the Electricity Directive into national law with the Art. 14c of the German Energy Industry Act ("EnWG"). But, Art. 14c EnWG cannot be applied, because it foresees that DSOs or Bundesnetzagentur have to define guidelines for the market-based DSO flexibility procurement. Neither DSOs nor Bundesnetzagentur have defined these guidelines yet. This means that Germany formally transposed Art. 32 of the Electricity Directive into national law of Art. 14 EnWG, but in reality DSOs cannot procure flexibility in a market-based way due to missing guidelines. This difference between legal transposition and reality shall be looked at in more detail in the next edition of the present ACER report.
- Furthermore, regarding the exception from market-based flexibility procurement when "the number of available power generation, energy storage or demand response facilities is too low to ensure effective competition", this exemption needs to be carefully monitored as the creation of a market-based procurement fosters the investment in more assets that can then participate to the market. Local flexibility markets build trust and transparency and thus incentivize the development of new flexibilities, increasing the number of market actors and volumes, and thus leading to effective competition in the market.
- These recommendations to foster the market-based flexibility procurement for congestion management shall be considered to be added to the Network Code Demand Response currently in its drafting process.

2. Local flexibility markets for congestion management create the right economic space for the development of flexibility.

- We strongly agree with the report's conclusions that important barriers exist for demand response to provide congestion management services and that platform solutions, such as local flexibility markets, create the right economic space for the development of flexibility. We also strongly agree that the clear provisions of the Clean Energy Package for the European target model of market-based flexibility needs to be urgently implemented in all EU member states. If exemptions are chosen, they clearly need to be within the list of possible exemptions granted by the Clean Energy Package.

- EPEX SPOT gained strong experiences over the past years in market-based flexibility solutions for congestion management through developing various local flexibility market initiatives in several European countries. Most recently, we have announced our [new partnership](#) with Great Britain's largest DSO "UK Power Networks" to provide them with and operate a local flexibility market in their area. UK Power Networks intends to attend £410m savings by 2028 with this local flexibility market by utilising flexibility in a market-based way as an alternative to the traditional approach of building more grid infrastructure. EPEX SPOT has been selected as the new flexibility market platform provider and operator after a competitive tender. The day-ahead flexibility procurement on the new platform will start shortly, followed by long-term flexibility procurement from May 2024 on.

3. Ensure interoperability through standardisation and technology, but avoid combined markets with forwarding of bids.

- Local flexibility markets are complementary to the European landscape of wholesale electricity and balancing markets. What should be aimed for is product standardization and process improvement to ensure value stacking for flexibility service providers (FSPs) across all markets. It should be facilitated for FSPs to offer their flexibility at all markets without barriers and arbitrage between these different value pools. This can be facilitated through technology, common standards and automatization. Yet, what should be avoided are combined markets with forwarding of bids between the electricity spot markets and local flexibility markets. The option of combined markets and bid forwarding is not the right way forward to develop market-based flexibility procurement for technical reasons, but also for market design reasons. The intraday market and the local flexibility market are different markets for different uses, with different products, different risks, hence different prices. They should not be mixed up. Otherwise, this would create price signal distortions and undermine overall market transparency.

4. Incentivise system operators to engage in market-based flexibility procurement.

- Lack of incentives to TSOs and DSOs to consider non-wire alternatives: This is a very important topic. Indeed, system operators need more incentives to procure flexibility in a market-based way. This can be achieved for example by moving from a CAPEX dominated approach rewarding in particular new grid infrastructure to a TOTEX approach that also takes into account non-wire alternatives. This point is a central point for the development of market-based (thus non-wire) solutions. It should not be hidden in the middle of less important points, but put forward in the next reports, e.g. with a dedicated own chapter on incentives for system operators.