



## **Energy Regulators' Work Programme for 2010 - AEP<sup>1</sup> Comments**

### **General**

AEP welcomes the fact that CEER and ERGEG are consulting on their work programme for 2010. The work programme is comprehensive and is also set out in a concise and clear fashion, which we welcome.

AEP's main concern is that, despite the statement that there will be a "stronger focus on fewer issues", the work programme is too wide-ranging. The Third Package has given regulators major new responsibilities at European level and the resulting set of Framework Guidelines and codes represents a massive work programme. The governance issues associated with integrating the European energy markets will be complex and much of the subject matter is challenging. Experience with the Second Package confirms this and progress with the Guidelines envisaged in that Package has been slow. Having a smaller number of focussed priority areas would be likely to facilitate contributions from across industry and so improve the quality of regulatory initiatives and developments.

In this light, AEP believes that the primary focus of the regulators should be on implementation of the Third Package and on progressing towards integrated European electricity and gas markets. The work programme, however, states that the Third Package is "only one of seven priority areas", though it is clear that work on a second (the regional initiatives) is closely linked.

While regulators undoubtedly have a role to play in ensuring security of supply and tackling climate change, other players, notably governments, will take the lead in these areas. Given limited resources, any work in these areas should be tightly focussed and clearly linked to the main activity of market liberalisation. Work on financial services and external issues should have a lower priority than the Third Package and the regional initiatives.

The priorities of the programme seem to reflect the structure of ERGEG and CEER working groups. While this is understandable, the deliverables of the programme do not seem to mirror the priorities. AEP would prefer to see a thematic approach taken, with allocation to working groups coming after the priorities and deliverables are established.

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<sup>1</sup>The Association of Electricity Producers (AEP) represents large, medium and small companies accounting for more than 95 per cent of the UK generating capacity, together with a number of businesses that provide equipment and services to the generating industry. Between them, the members embrace all of the generating technologies used commercially in the UK, from coal, gas and nuclear power, to a wide range of renewable energies.

## **Important Topics**

As noted above, AEP believes that the primary focus of the regulators should be on implementation of the Third Package and on progressing towards integrated European electricity and gas markets.

AEP therefore welcomes the priority given to the Framework Guidelines and supports the idea of carrying out pilot projects to develop the process. In AEP's view, the most important topics to progress are (in both electricity and gas) capacity allocation/congestion management and transparency. Clear EU Guidelines and Codes in these areas could make a major contribution to integrating the market and ensuring a level playing field. We also support the reviews of the regional market initiatives which are being proposed.

AEP also agrees that oversight of the ten-year TSO network development plans in electricity and gas is a key activity, and welcomes the proposed review of electricity interconnection management. Regulators could even be more proactive in this area, e.g. by examining what more can be done to provide a supportive framework for investment in new interconnectors.

## **Less Important Topics**

While security of electricity supply clearly is a major issue for all stakeholders, AEP doubts whether this should be an urgent priority for the regulators at EU level. The EU transmission networks continue to be operated to a high level of reliability and on the rare occasions when problems have occurred, these have stemmed not from any inadequacy in the operational rules but from equipment failure or human error. AEP would therefore see the Framework Guideline on operational security as something less of a priority, and has some doubts about the value of Good Practice Guidelines on generation adequacy.

The work programme relating to customer issues (section 3.3.1) contains a number of proposed good practice guidelines. While some of these are needed, e.g. work on smart metering and regulated retail tariffs, AEP wonders whether, for instance, guidelines on customer complaint handling are of comparable importance. In general terms, we consider that regulators should be focussing on the Framework Guidelines as provided for in the Third Package rather than on good practice guidelines in other areas.

It is clear that energy and financial regulators should cooperate closely both at national and at European level. Inconsistencies in approach (unless justified by the underlying markets) and gaps in regulation between the two sectors should be avoided. However, AEP questions whether this should be a major activity for the energy regulators in 2010. Leaving aside the issue of transparency, which should be dealt with as a priority through the Guideline process, AEP does not believe that regulators have made a convincing case for new powers on market abuse or market manipulation in the energy sector. These issues can be effectively dealt with through competition law and national market rules. Moreover, since new developments

introduced under the Third Package should also contribute to improved market transparency and operations, these measures should be allowed to 'bed-down' before new legislation is prepared/proposed.

AEP agrees that regulators can contribute to the "greening" of the energy sector, particularly in the area of network regulation. However, in the context of the 2010 programme, we do not regard this area as a priority on a par with the liberalisation of the energy market. The statement that regulators will "focus on analysing the regulatory framework ... but will also continually adapt to new emerging needs" seems to be rather open-ended. AEP would wish to see a focussed approach in this area and believes that regulators should concentrate mainly on minimising adverse impacts on markets, e.g. ensuring that the expansion of renewable energies is compatible with a market framework.

### **Issues Not Sufficiently Covered**

As mentioned above, the work programme covers most areas of relevance. One important gap, in AEP's view, is the issue of electricity transmission charging. Different approaches to network charging are likely to produce increasing distortions to trade as the European market becomes more integrated. One example already causing difficulty is the application of "triad" charges to exports from the UK to France. AEP would like to see regulators progress the Framework Guideline on transmission charging as a priority and implement Guidelines on the ITC scheme and charging harmonisation.

AEP also believes that regulators should focus proactively on the impact of renewable generation on electricity markets and networks. The 2020 targets will mean a major expansion of renewables and there are potential conflicts with the objective of a competitive European energy market. AEP suggests that the regulators should analyse the National Renewable Action Plans due in June 2010, with a view to ensuring that renewable generation can be integrated as effectively as possible in energy markets and in network development programmes.

### **Consultation and Hearings**

AEP is generally satisfied with ERGEG's existing practice in relation to consultation. However, stakeholder consultation will now take on greater importance as the Third Package is implemented and it is vital that the new processes for Guidelines and codes have full stakeholder engagement and are adapted in the light of experience.

Consultation on EU rules is inevitably more difficult to manage than consultation at national level. AEP believes that consultation should involve as wide a group of stakeholders as possible, including minority views. We would thus encourage national regulators to publicise the work of ERGEG/CEER to market participants within their Member State and to encourage greater involvement in regulatory developments at EU & regional levels.

Representative groups, in particular European associations, need to play a prominent role, but national associations, individual market players and independent experts should also be involved in the process. AEP emphasises that, for the process to yield genuine results, industry should be able to select its own representatives.

AEP welcomes the hearings organised by the regulators on specific issues. While we recognise that the number of attendees will inevitably have to be limited on some occasions, we think that ERGEG/CEER could look to broaden participation. For instance, a rather restrictive approach seems to have been taken so far to attendance at events such as the annual regional markets conference.

## **Conclusion**

- AEP welcomes the clear and concise nature of the work programme;
- Our main reaction is that the programme should focus more closely on the work arising from the Third Package;
- The major priorities should be work to develop competitive and integrated EU energy markets, e.g. Guidelines on congestion management, capacity allocation and transparency, and the development of regional markets;
- Work in other areas, e.g. security of supply, climate change, financial services and external issues should be more tightly focussed, and in some cases scaled back;
- The regulators should develop an inclusive approach to consultation and ensure that arrangements are modified in the light of experience.

Association of Electricity Producers, 5<sup>th</sup> November 2009