

# Consultation on ERGEG Workprogramme 2010

November, 6th 2009



## **Consultation on ERGEG Work Programme 2010**

### **General Remarks**

The German Association of Energy and Water Industries (BDEW) represents 1,800 members of the electricity, gas and water industry. In the energy sector, we represent companies active in generation, trading, transmission, distribution and retail.

We welcome the decision to consult on the Energy Regulators' Work Programme and appreciate the opportunity to comment on the Work Programme.

### **- Key areas of work -**

BDEW supports ERGEG's initiative to anticipate the work to be done by ACER and to prepare the regulators' input for the future work of the agency. In the interest of building a true internal market with high reliability and a high degree of competitiveness, the phase before ACER, ENTSOE and ENTSOG become fully operative should not remain unused, but should instead serve as a test phase for the elaboration of guidelines and codes. However, the question how these preparatory work packages may subsequently be integrated in the procedures for adopting network codes and framework guidelines should be further examined from a legal point of view.

In general, BDEW perceives the 3<sup>rd</sup> Package as the heart of ERGEG's work for 2010 and beyond. BDEW thus encourages ERGEG to focus in its preparatory work for ACER on certain key areas. Those key areas should correspond to the issues and roles assigned to ACER within the 3<sup>rd</sup> Package. If the focus is not limited to these issues, the start of ACER may prove less effective than desired.

Hence, some of the areas which are identified in the draft work programme need to be seen in a different context. This applies in particular to the following areas of work:

- Affordability and Consumer Issues (work area 3)
- Climate Change and Energy Package (work area 4)
- External Relations (work area 7)

Of course, these issues should not be neglected. However, we are uncertain whether they should be addressed by ERGEG: In our view, these issues should primarily be dealt with by the EU-Commission or national authorities. In addition, not all national regulators have juris-

diction over certain issues In our view, such issues should consequently rather be addressed by CEER and not ERGEG.

BDEW shares ERGEG's view that full implementation of the 3rd Package is of high importance for the development of the European markets. ERGEG can play a very positive role in the monitoring progress, addressing shortcomings and proposing remedies.

BDEW supports the Regional Initiatives process and we are convinced that the Regional Initiative should be a main focus of ERGEG's work in 2010. These efforts, however, should be coordinated with the work of the Project Coordination Group, in order to achieve results which are consistent and quick. This also ensures to avoid parallel work of different workstreams.

#### **- Consultation process -**

BDEW encourages ERGEG to provide substantial input for the framework guidelines and network codes as this will have a high relevance for functioning markets for gas and electricity. However, early participation of market parties and transparent procedures are of eminent importance. The establishment of ad hoc expert groups, as practised by ERGEG recently, cannot be a substitute for full consultation with market participants. Therefore, as a general principle, we believe that in order to ensure early and extensive market stakeholder consultation, the existence of ad hoc expert groups should be complemented with the creation of a more structured and representative model.

With regards to network codes and framework guidelines it is of particular importance that the market parties receive full information and are given the opportunity to comment on every stage of the process. Otherwise it will be difficult to strike the right balance between the interests of the network operators, which are fully integrated in the process via ENTSO-E and ENTSO-G, and the interests of the market parties, which are dependent on transparent consultations.

We would also like to point out that it should be considered to give the stakeholders the possibility to provide input to all measures of the working programme. At present, there are several items where no public consultation or hearing is foreseen.

In the following, we provide detailed comments to the Energy Regulator's Work Programme. With regard to measures, which we deem as 'very important' or 'important', BDEW will make sure that the regulators receive the relevant industry input during the consultations.

## Detailed Comments on planned Energy Regulator's Work

We appreciate the opportunity to give an indication of the likeliness that the BDEW as an association will contribute to the various parts of the work programme. Naturally, we will contribute to the various initiatives and will bring in expertise where appropriate. We would expect that the level of importance is also a pretty good indicator for our involvement. However, a final decision will be taken in consideration of the specific process.

No.	Subject/ Comments	Importance	Likelihood of Industry contribution/ participation
# 1	<b>Pilot Framework Guideline on electricity grid connection (EWG)</b>	Important	High
	Comments:  From BDEW's point of view, ERGEG's project is important. The discussed conditions of grid connection for TSOs have a strong link with the distribution network. In Germany, TransmissionCode and DistributionCode have been revised on a regular basis and are strongly linked.		
# 2	<b>Input to the Framework Guideline on capacity allocation and congestion management (EWG)</b>	Important	High
	Comments:  A Framework Guideline on capacity allocation and congestion management should take account of experience gained in the field of the relevant market design and should build on lessons learned in advanced regional markets. Such an approach would be a pragmatic way to ensure gradual coherence and convergence: regions should learn from experiences in other regions and follow similar, converging paths or even leap frog other regions.		
# 3	<b>Input to the Framework Guideline on operational security (EWG)</b>	Important	Likely
	Comments:  From BDEW's point of view, ERGEG's project is important in order to maintain system responsibility of TSOs with the help of DSOs. In particular, the balance between feed-in and load (regarding the aspect of increasing feed from RES) can only be kept jointly by TSOs and DSOs.		

<p># 4</p>	<p><b>EREGG Conclusions Paper on long-term allocation rules for electricity (RIG)</b></p>	<p>Important</p>	<p>Likely, if participation is allowed</p>
<p>Comments:</p> <p>The results from the benchmarking exercise will be very interesting for our industry. We would be happy to participate in the stakeholder feedback. Despite the fact that no consultation or public meetings on the conclusions paper are envisaged, we would hope that an open discussion on the conclusions will be encouraged.</p>			
<p># 5</p>	<p><b>EREGG Status Review on regional electricity interconnections management and use (RIG)</b></p>	<p>Very Important</p>	<p>Likely, if participation is allowed</p>
<p>Comments:</p> <p>The status review is an important step in the further integration of European markets. We hope that transparency for market participants will be increased by this review. Despite the fact that no consultation or public meetings are envisaged, we would hope that an open discussion on the conclusions will be encouraged. Perhaps a public workshop would be an adequate idea for an open and transparent exchange of ideas.</p>			
<p># 6</p>	<p><b>EREGG Advice on the 10-year electricity network development plan (EWG)</b></p>	<p>Important</p>	<p>Likely</p>
<p>Comments:</p> <p>Further investment in the electricity transmission grid is essential for market integration and particularly to cater for the increasing power generation from renewable energy sources. We appreciate the possibility to contribute with our experience.</p>			
<p># 7</p>	<p><b>Guidelines of Good Practice on generation adequacy treatment (EWG)</b></p>	<p>Important</p>	<p>Likely</p>
<p>Comments:</p>			
<p># 8</p>	<p><b>EREGG Advice on intelligent networks (smart grids)</b></p>	<p>Important</p>	<p>Likely</p>
<p>Comments:</p> <p>We understand this project as an approach to further clarify the different aspects of smart grids. The attempt to develop guidelines for regulatory aspects of smart grids should be limited to the relevant provisions in the directive. We don't see a mandate for any work beyond this..</p>			

# 9	<b>Input to the Framework Guideline on transparency in electricity (EWG)</b>	Very Important	Very High
<p>Comments:</p> <p>This is an important ongoing issue, which we closely follow and we wonder whether ERGEG should start the work on the FG earlier in 2010. Also, this work cannot be done alone by ERGEG, but should be closely coordinated with financial regulators (CESR) and the Commission (esp. DG Market and DG TREN) as in the past.</p>			
# 10	<b>CEER Guidelines of Good Practice on harmonised surveys on quality of electricity supply (EWG)</b>	Important	Likely
<p>Comments:</p> <p>The proposed guidelines should take into account the individual network structure like density of population, renewable feed-in, etc.</p>			
# 11	<b>ERGEG Response to energy efficiency</b>	Not Important	Likely
<p>Comments:</p> <p>Energy efficiency and climate change policy may have an indirect impact on the work of regulators but this does not per se give a mandate to ERGEG as a defined EU-institution.</p> <p>No Role of ERGEG -&gt; EU-Commission and Member States.</p> <p>Accompanying work of CEER may be considered</p>			
# 12	<b>CEER Status Review on the implementation of the Climate and Energy Package</b>	Not important	uncertain
<p>Comments:</p> <p>CEER as the association of regulators may legitimately deal with the issue in question. However, given a predominant role of the EU-Commission work on the Climate and Energy Package should have a low priority within CEER.</p> <p>Accompanying work of CEER may be considered</p>			

# 13	<b>Pilot Framework Guideline on CAM &amp; CMP and Draft Comitology Guidelines (GWG)</b>	Very important	Very Likely
<p>Comments:</p> <p>BDEW supports this procedure. We agree with the general pre-requisites set by ERGEG that capacity allocation mechanisms (CAM) and congestion management procedures (CMP) must be transparent and non-discriminatory and that they must combine technical and economic efficiency while addressing the various needs of market participants.</p>			
# 14	<b>ERGEG Guidelines of Good Practice on CAM &amp; CMP to storage facilities (GWG)</b>	Very important	Very Likely
<p>Comments:</p> <p>BDEW underlines that the Guidelines for Good Practice should be developed in the same period as the Framework Guidelines to CAM/CMP.</p>			
# 15	<b>Input to the Framework Guideline on gas balancing rules (GWG)</b>	Very important	Very Likely
<p>Comments:</p> <p>We welcome this initiative.</p>			
# 16	<b>ERGEG Advice on best practices applied in all types of LNG terminals regarding congestion management procedures, anti-hoarding measures and notices periods (GWG)</b>	Important.	Likely, if participation is allowed
<p>Comments:</p> <p>The BDEW welcomes improvements to the existing practices in Europe. Despite the fact that no consultation or public meetings are envisaged, we would hope that an open discussion on the conclusions will be encouraged. Perhaps a public workshop would be an adequate idea for an open and transparent exchange of ideas.</p>			

# 17	<b>EREGG Response to GTE+'s 10-year network development plan based on CEER model-based analysis (GWG)</b>	Important	Likely
<p>Comments:</p> <p>BDEW welcomes the opportunity to discuss the results in a public hearing or workshop. The 10-year gas network development plan is a key tool to improve competition and security of supply. The results of the study of ERGEG will be very important for the evaluation of existing national development plans</p>			
# 18	<b>EREGG Status Review of intra and inter-regional coordination of open seasons (RIG)</b>	Important	Not Likely
<p>Comments:</p> <p>Despite the fact that no consultation or public meetings are envisaged, we would hope that an open discussion on the conclusions will be encouraged.</p>			
# 19	<b>Input to the Framework Guideline on harmonised transmission tariff structures (GWG)</b>	Very important	Very Likely
<p>Comments:</p> <p>The BDEW agrees that the tariff setting by an independent authority is of fundamental importance to ensure the maximisation of the social welfare. The current tariff regulation in at least some Member States, such as Germany, is not entirely suited to ensure the necessary investments. Therefore, any solution to increase capacity needs to address the issue of appropriate incentives for investments. Providing a safe climate to foster investment into gas transmission networks is a key component for establishing a non-discriminatory and efficient market for transmission rights.</p>			
# 20	<b>EREGG Benchmarking Report on storage tariffs (GWG)</b>	Important	Likely
<p>Comments:</p> <p>Germany has the most storage facilities in Europe. Because of the competition on the storage market, tariffs in Germany are not regulated.</p> <p>Despite the fact that no consultation is envisaged, we would hope that an open discussion on the conclusions will be encouraged.</p>			



# 21	<b>EREGG Guidelines of Good Practice on retail market monitoring (CWG)</b>	Important	Very Likely
<p>Comments:</p> <p>We welcome this initiative, but we are not certain if EREGG is the right body for this.</p>			
# 22	<b>EREGG Guidelines of Good Practice on regulatory aspects of smart metering for electricity and gas (CWG)</b>	Very important	Very Likely
<p>Comments:</p> <p>Decisions on implementations of smart meters have to be made on national levels. Guidelines must adhere to this concept.</p>			
# 23	<b>EREGG Guidelines of Good Practice on customer complaint handling for service providers and third-party bodies (CWG)</b>	Very important	Very Likely
<p>Comments:</p> <p>We welcome this initiative, but we are not certain if EREGG is the right body for this.</p>			
# 24	<b>EREGG Status Review on end-user price regulation as of 1 January 2010 (CWG)</b>	Important	Likely, if participation is allowed
<p>Comments:</p> <p>We regret that no consultation or public meetings are envisaged, we would hope that contributions from stakeholders will be considered or in minimum an open discussion on the conclusions will be encouraged. Perhaps a public workshop would be an adequate idea for an open and transparent exchange of ideas.</p>			
# 25	<b>EREGG Compliance Monitoring Report on the implementation status of DSO unbundling (ENP WG)</b>	Important	Likely, if participation is allowed
<p>Comments:</p> <p>This report should be based on the existing legal requirements as set in the 3<sup>rd</sup> package. We propose that in the establishment of this report not only the views of NRAs, but also those of DSOs and market participants will be taken into consideration.</p>			

# 26	<b>EREGG Advice on the regulatory oversight of energy exchanges (FIS WG)</b>	Important	Very Likely
	<p>Comments:</p> <p>We welcome the opportunity to contribute in an open discussion in a public hearing or workshop.</p>		
# 27	<b>EREGG Response on market supervision issues (FIS WG)</b>	Important	Likely, if participation is allowed
	<p>Comments:</p> <p>We are very concerned that the finalisation of this ongoing work, which is being considered as very important the EU commission is only expected in 2011. We hope that the work of the relevant Groups will establish tailor-made results much earlier. We would welcome an open and transparent process for the development in this area.</p>		
# 28	<b>EREGG Response on transparency in energy trading (FIS WG)</b>	Important	Likely, if participation is allowed
	<p>Comments:</p> <p>This should be considered as one single deliverable with #27</p>		
# 29	<b>CEER Response on interdependencies with other markets (FIS WG)</b>	Important	Very Likely
	<p>Comments:</p> <p>This is closely linked to #27 and #28. We welcome the opportunity to contribute to a broader consensus in this area.</p>		
# 30	<b>EREGG Advice on wholesale trading licenses (FIS WG)</b>	Important	Likely, if participation is allowed
	<p>Comments:</p> <p>This is also an important issue in the process of integrating the energy markets, but should respect specific national situations like in Germany. Despite the fact that no consultation or public meetings are envisaged, we would hope that an open discussion on the conclusions will be encouraged.</p>		

<p># 31</p>	<p><b>Status Review on the ERGEG Regional Initiatives (RIG)</b></p>	<p>Very Important</p>	<p>Likely, if participation is allowed</p>
<p>Comments:</p> <p>We believe that this is such a central theme in the integration of European energy market integration, that we would expect that stakeholders' positions are collected and taken in consideration to ensure an open and transparent process for the development in this area.</p>			
<p># 32</p>	<p><b>CEER Advice on the modification and enforcement of network codes (ENP WG)</b></p>	<p>Important</p>	<p>Likely, if participation is allowed</p>
<p>Comments:</p> <p>We regret very much that no consultation or public meetings are envisaged for this key issue. We would hope that an open discussion on the conclusions will be encouraged.</p>			
<p># 33</p>	<p><b>ERGEG Status Review of the liberalisation and implementation of the energy regulatory framework (ENP WG)</b></p>	<p>Important</p>	<p>Likely, if participation is allowed</p>
<p></p>			
<p># 34</p>	<p><b>ERGEG Conclusions Paper on a strategy for delivering a more integrated European energy market through the Regional Initiatives (RIG)</b></p>	<p>Very Important</p>	<p>Likely, if participation is allowed</p>
<p>Comments:</p> <p>Despite the fact that no consultation or public meetings are envisaged, we would hope that an open discussion on the conclusions will be encouraged. Perhaps a public workshop would be an adequate idea for an open and transparent exchange of ideas.</p>			