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Response to Draft CEER Work Programme 2013 Consultation (C12-WPDC-22-06)

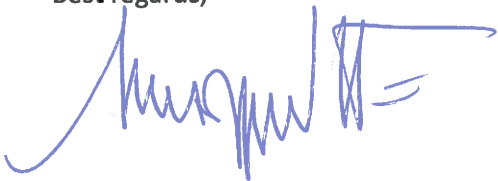
Dear Natalie,

Thank you for the opportunity to respond to your consultation¹.

ENTSOG notes that you also seek in parallel feedback on the parallel ACER Work Programme consultation².

Whilst ENTSOG finds this strange it has included some comments attached to this letter and will also copy this response to ACER.

Best regards,



Vittorio Musazzi
ENTSOG General Manager

cc: Alberto Pototschnig, ACER

¹ Draft CEER 2013 Work Programme consultation. (C12-WPDC-22-06)

² 2013 Work Programme of the Agency for the Cooperation of Energy Regulators 30 June 2012

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Introduction

ENTSOG provides some general comments before commenting on some specific CEER and ACER Work Programme elements.

> Confusion between ACER and CEER

ENTSOG finds that the blurring of the distinction between ACER and CEER is unhelpful. It is important that as the formal European institute, ACER should deliver its responsibilities and obligations. ACER has only existed for a little over one year and must mature rapidly to ensure that current political imperatives are delivered in a robust and timely manner. Where European statutory matters are concerned then NRAs should work within ACER rather than in another organisation.

> Transparency and resourcing

ENTSOG appreciates the detail in the ACER Work Programme document. The document provides a valuable insight into the challenges facing this new and still maturing organisation. ENTSOG notes the requirement to focus on timely Internal Energy Market (IEM) delivery and notes ACER's determination to ensure adequate resources to deliver on the priority work associated with completing the priority network codes (CAM, Balancing, Interoperability and Tariffs). ENTSOG recommends that ACER secure some further resources that have practical industry experience to complement purely theoretical and regulatory backgrounds to ensure robust and practical outcomes.

Specific comments on CEER Work Programme

> Activity 6: Joint CEER/ACER Market Monitoring Report on the Internal Electricity and Natural Gas Markets

This is a role for ACER, rather than CEER, and the relation between the ENTSO's and ACER's responsibilities needs to be resolved to ensure that each organisation has a clear understanding of its responsibilities and resourcing requirements. ENTSOG is already in communication with ACER to define this division of responsibilities.

> **Activity 7: CEER Status Review on the Transposition of Unbundling Requirements for TSOs and DSOs**

Given that the Commission has the powers to launch infringement procedures and because of their role in the certification processes ENTASOG believes that this should be a Commission activity.

> **Activity 16: CEER Monitoring Report on the Implementation of the Gas Target Model**

ENTASOG repeats its view that any review or monitoring of the Gas Target Model is premature and would not be a good use of resources in 2013. ENTASOG therefore recommends that this be dropped from the CEER Work Programme. Monitoring must be addressed, as already mentioned, and ENTASOG anticipates monitoring of network code to be a significant part of 2014 activity as we progress towards the IEM by the end of that year.

> **Activity 17: CEER Advice on Auctions and Network Development Plans as Mechanisms for the Identification and Allocation of Incremental Capacity**

ENTASOG notes that ACER has been invited to consider incremental capacity issues within the Tariff framework guideline development¹. The Tariff framework guideline deadline is 31 December 2012. In parallel CEER are consulting² on the issue of incremental capacity. It is unlikely that CEER's outputs will be delivered before the framework guideline delivery deadline. Therefore it would be preferable that this work be conducted, and completed, by ACER this year, if it is to be included in the Tariff network code. An alternative to this would be to consider that the incremental capacity is addressed in a later code. ENTASOG will raise this issue for discussion at the next Commission/ACER/ENTASOGs Planning Meeting.

> **Activity 18: Revision of the CEER Guidelines on Open Season Procedures (GGPOS)**

This matter is better considered as part of the general activity associated with the delivery of incremental capacity processes. The challenge should be to explore whether one approach to incremental capacity is to be preferred rather than to preserve the separate and distinct processes associated with long-term market tender approaches (often inappropriately referred to as "auctions") and open seasons processes in different parts of Europe; convergence may be beneficial. The aspiration should be to extract lessons from both approaches to enable an enhanced incremental capacity and investment framework.

¹ Commission invitation to start procedure on tariff framework guideline 29 June 2012 (Ares(2012)789016-29/06/2012)

² CEER Market-Based Investment Procedures for Gas Infrastructure Consultation (C12-GWG_87-03)

ENTSOG therefore recommends a similar approach as to that recommended in respect of Activity 16.

Comments on ACER Work Programme

ENTSOG appreciates the detail and transparency of the ACER WP consultation document. ACER recognises the criticality of the gas priority codes (CAM, Balancing, Interoperability and Tariffs). The document assumes that the Tariff framework guideline is completed to schedule by 31 December 2012. ENTSOG recommends that the Tariff framework guideline scope is kept tight and limited to matters that may be of material detriment to properly functioning national markets or to cross-border trade. In the CEER Work Programme comments made above ENTSOG has indicated that it is ACER that should be leading on these important matters and which should ensure and maintain the necessary focus.

ACER's framework guidelines must provide the blueprint for ENTSOG's development of the network codes. ACER's opinion on the delivered network codes should be limited to the extent the relevant code is in line with the framework guideline. It is critical that new requirements, or interpretations that could not reasonably have been foreseen, are not introduced after the framework guideline has been delivered. This could disrupt the network code development processes or indeed delay the delivery of binding rules if ACER introduces new thinking after ENTSOG has submitted a network code.

An open and transparent way of working must be used throughout the framework guideline and network code development processes. ENTSOG urges that it is actively involved in ACER's framework guideline development activity and that ACER staff closely track ENTSOG's network code development process.

The ACER Work Programme anticipates more resources being engaged in monitoring and reporting tasks rather than in hands-on activity associated with delivery of the final codes (including the development and explanation of ACER's opinions, whether they be preliminary or final). This may require some attention given that the main focus must be the delivery of binding rules via comitology to deliver the IEM before the end of 2014.

