

Mrs Fay Geitona  
Council of European Energy Regulators ASBL  
28 rue le Titien  
1000 Bruxelles  
Belgique



6 November 2009

Dear Fay

**European Energy Regulators Draft 2010 Work Programme (Ref: C09-WPDC-18-03)**

In response to the consultation paper issued 9 September 2009, EDF Energy is pleased to give the following views on the European Energy Regulators Draft 2010 Work Programme.

EDF Energy welcomes this timely consultation; we believe that early stakeholder involvement is a guarantee of future success for the functioning of European regulation and ACER, notably during 2010, the preparatory year before ACER's formal establishment in March 2011. We appreciate also that the ENTSO work programme consultation launch has been well coordinated with that of ERGEG

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, renewables, coal and gas-fired electricity generation, combined heat and power plants, electricity networks and energy supply and services to end users. We have over 5 million electricity and gas customer accounts in the UK, including both residential and business consumers.

From a general perspective we support ERGEG's approach to focus its main efforts on key strategic areas. In this respect the seven prioritised key areas of work seem appropriate. However, we would highlight the cooperation of transmission system operators and access to cross-border infrastructure as priorities for the future ACER.

Considering the pivotal position of ERGEG and of the future ACER amongst National Regulatory Authorities, we would be pleased to see a particular commitment to follow "best practice" regulation principles as far as possible.

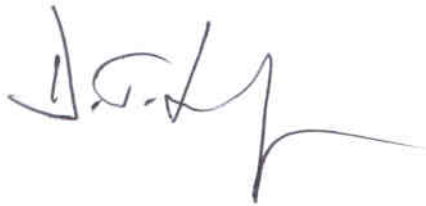
- The "targeting" principle should help focus future regulatory developments on areas that would enhance national markets and bring new benefits to customers. We believe that harmonisation of rules should not be an objective per se. Rather, functioning of markets should be thoroughly analysed and possible improvements weighed against any unintended consequences before changing the rules.
- Receiving "input from users and their representative bodies" is illustrated by this consultation, which constitutes an encouraging step. However we note that some of the drafting of guidelines by expert groups, such as Capacity Access, has begun. At the same time it is noted that there are several established entities working on similar areas such as GTE+ and ENTOSOs on 10 year network development plans, Regional Initiative groups

and ERGEG on information release, etc. It will be necessary to ensure that the work carried out by different groups is coordinated effectively. We would welcome guidance from ERGEG on how this will work in practice.

Finally, we would like to stress that EDF Energy is keen to be involved in the evolution of future regulations and will dedicate time and resources as necessary to participate in the work contemplated by ERGEG and the future ACER. However it is important that there is no duplication of work and we believe that our participation is likely to add value to the process.

Our detailed comments are contained in the attachment to this letter. If you have any queries on this response, please do not hesitate to contact Michel Tocher on +44 20 7752 2167 or myself.

Yours sincerely

A handwritten signature in black ink, appearing to read "D. Linford".

**Denis Linford**  
Corporate Policy and Regulation Director

## Attachment

### Consultation on the European Energy Regulators Draft 2010 Work Programme

#### Views on key areas of work

As requested in the consultation document we will follow the pattern of five generic questions for each key area. Nevertheless as most deliverables come under several key areas and with the aim of avoiding repetitions, our comments on deliverables are put together in the following section.

#### ① The 3<sup>rd</sup> package

- How do you assess our general approach and objectives

We consider that the implementation of the 3rd package is the most important priority that ERGEG has to deal with. We agree with the general approach set out in the consultation document however we recognise that 18 month implementation is a tight deadline.

The regulatory aspects of grid management and infrastructure development are definitely the main parts of this programme. In the field of cross border exchanges, significant progress has already been made although major improvements are still possible and expected.

We believe that this can be achieved without pushing for extended common rules to be prescribed in each market; different market models may co-exist. We think that the aim of the ERGEG should be to facilitate trade between national markets by supporting flexible regulation, enabling existing capacity optimisation and interconnection development.

In a long term perspective we support the idea of harmonised rules across Europe and overall market integration which has to be implemented on a step by step basis

Regarding interconnection infrastructure, we think that the issue of merchant lines, investment and operation, could be more specifically addressed and in particular allowed or even encouraged to exist alongside TSO developed lines.

- Do you consider that the deliverables we have proposed are an adequate means to reach our key objectives?

We consider that the proposed deliverables are adequate. Specifically, we clearly agree on the adequacy of deliverables under 3.1.1 Regulatory aspects of electricity grid management, 3.2.1 regulatory aspect of gas grid management and 3.1.3 on transparency in electricity.

We are not certain that the deliverables related to infrastructure development both for electricity and gas will be sufficient to deliver a significant contribution in terms of encouraging investment, especially in cross border interconnections.

#### ② Security of supply

- How do you assess our general approach and objectives

Although Security of Supply of gas affects Security of Supply of electricity, it is important to note that Security of Supply of electricity is influenced by a much broader range of factors and therefore we believe these should be addressed separately.

Regarding electricity, we think that operational security of network infrastructures has been reasonably assessed in ERGEG's 2010 work programme subject to the following point:

- Modern Interconnection can provide the option of almost instantaneous active power, reactive power and frequency support between connected grids. We believe this technology should be included in the UK's portfolio of Security of Supply measures and hence means to encourage its development should be included in ERGEG's 2010 work programme.
- We believe that currently the major concern is investment in generation. In our view two main factors are deterring investment. Firstly uncertainty of the regulatory framework; time horizons for investors in generation are not compatible with frequent regulatory changes and lack of clarity on long term public policy. Secondly, we need resolutely appropriate carbon price delivering the right signal for investment in low carbon economy. In that respect, we are not absolutely convinced that the deliverable #7 "GGP on generation adequacy treatment" will contribute significantly to tackle these issues.

Regarding gas, we consider that the drafted regulation prepared by EC on the gas Security of Supply will be the main tool to mitigate risks. We notice that it is not yet in the ERGEG's work programme despite the implications for Emergency procedures and cross border cooperation.

- Do you consider that the deliverables we have proposed are an adequate means to reach our key objectives?

We consider that the proposed deliverables are adequate subject to our comments stated above.

### ③ Affordability and customer issues

- How do you assess our general approach and objectives

We support the general importance given to affordability and customers issues as an ultimate objective of the internal energy market package. In this area we believe strongly that the main facilitator for effective customer rights is strong and fair competition.

Nevertheless we agree that the market needs to be monitored, especially during the early phase of the introduction of competition. In that sense, the selected customer protection items seem relevant to us.

In this area, we can note that market context differs widely from one country to another across Europe; to name a few items, competition intensity, existence of regulated tariffs, liquidity of wholesale market, subsidies etc. Therefore we consider that affordability and customer issues should be assessed mainly at national level depending on real market features, customer behaviour, typology of utilities, national energy policies, etc.

In these conditions European regulation should be limited to the setting of very high level rules or recommendations enabling legislation at the top; too detailed and overly prescriptive measures would mainly hinder countries already the most advanced in this area and would be consequently counterproductive.

From ERGEG, we expect mainly importance to be given to sharing of experiences and best practices.

More specifically, the regulatory aspects of smart metering for electricity and gas are relevant issues in many countries. It is important that the development of the regulatory framework facilitates the timely and efficient delivery of the roll-out of smart meters across the EU

- Do you consider that the deliverables we have proposed are an adequate means to reach our key objectives?

Subject to our remarks above, we consider that the deliverables are adequate. We expect that standardisation of metrics for reporting on quality of supply and quality of services will facilitate benchmarking.

#### ④ Climate change and energy issues

- How do you assess our general approach and objectives

We think that ERGEG's approach is not very ambitious and not in line with recent announcements made in the framework of the last World Forum in Energy Regulation and notably by ERGEG's Chairman.

In this area we believe that several issues should be put on ERGEG's agenda.

One of the main current concerns is the lack of maturity of the EU ETS. Effective low carbon investment needs a robust, appropriate and long term visible carbon price signal. Some countries such as the UK are embarking on significant generation capacity replacement programmes and it is unlikely that the EU ETS will on its own create a sufficient incentive to invest in low carbon technologies.

The idea of carbon tax applied to all energy users not presently covered by EU ETS is a topic discussed in several countries; ERGEG may have a role in analysing general aspects and developing regulatory guidance.

Regulators must recognise the dynamics of investment decisions, particularly in low carbon generation by providing greater transparency to the real costs of a technology and exposing hidden financial support and cross subsidies.

- Do you consider that the deliverables we have proposed are an adequate means to reach our key objectives?

In line with our remark stated above on the low ambition of ERGEG in this area, we note that the deliverables have limited scope: one statutory review and one response to EC policy without consultation. We believe that, within the framework of its statutory tasks, ERGEG could contribute usefully to other important climate change issues as suggested above.

#### ⑤ Financial services

- How do you assess our general approach and objectives

We agree with ERGEG's general approach and objectives.

We think that there is relative urgency to deal with trading issues due to upcoming general regulation on financial products.

In general we support high level of transparency in wholesale markets; requested information disclosure from generators should be carefully assessed to avoid new opportunities for market gaming. We expect that stakeholders will be consulted in due time on this matter.

- Do you consider that the deliverables we have proposed are an adequate means to reach our key objectives?

We can note the sole consultation is related to a better understanding of interdependencies between energy commodities and CO2 emission allowances.

#### ⑥ Regional market initiative

- How do you assess our general approach and objectives

We consider that the regional initiative is a realistic approach to wider market integration and we agree with ERGEG's general approach and objectives.

As an operator in GB, we would like to highlight the specificities of the FUI regional market, where market designs are quite different between the three countries and interconnection is and always will be through HVDC cables. Therefore system changes, which are costly and resource consuming should be initially limited to the development of efficient cross-border trading. In that sense European regulation should avoid being too specific about trading mechanisms and allow different methodologies, as long as they deliver efficient cross-border trading.

We reiterate that regulation should incentivise development of new cross border interconnection either publicly or privately owned.

- Do you consider that the deliverables we have proposed are an adequate means to reach our key objectives?

Subject to our above remark, we consider that the deliverables are adequate

#### ⑦ External relations

No comment

## Views on ERGEG's Work in detail

### 3.1 Electricity

#### 3.1.1 Regulatory aspects of grid management

① ②	<b><i>Pilot Framework Guideline on electricity grid connection (EWG)</i></b>	
# 1	Importance : Very important	EDF E possible participation: consultation : Y H&W : Y
comments		

① ⑥	<b><i>Input to the Framework Guideline on capacity allocation and congestion management (EWG)</i></b>	
# 2	Importance : Very important	EDF E possible participation: consultation : Y H&W : Y
comments		

① ②	<b><i>Input to the Framework Guideline on operational security (EWG)</i></b>	
# 3	Importance : Very important	EDF E possible participation: consultation : Y H&W : Y
comments		

① ② ⑥	<b><i>ERGEG Conclusions Paper on long-term allocation rules for electricity (RIG)</i></b>	
# 4	Importance : Very important	EDF E possible participation: N/A
comments		

① ② ⑥	<b><i>ERGEG Status Review on regional electricity interconnections management and use (RIG)</i></b>	
# 5	Importance : Very important	EDF E possible participation: N/A
comments		

#### 3.1.2 Regulatory aspects of electricity infrastructure development

① ② ⑥	<b><i>ERGEG Advice on the 10-year electricity network development plan (EWG)</i></b>	
# 6	Importance : Very important	EDF E possible participation: consultation : Y H&W : Y?
comments		

②	<b><i>Guidelines of Good Practice on generation adequacy treatment (EWG)</i></b>	
# 7	Importance : Important	EDF E possible participation: consultation : Y H&W : Y?
comments		

① ④	<b><i>ERGEG Advice on intelligent energy networks (smart grids) (EWG)</i></b>	
# 8	Importance : Important	EDF E possible participation: consultation : Y H&W : Y?

comments	
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### 3.1.3 Regulatory aspects of electricity wholesale market issues

①	<b><i>Input to the Framework Guideline on transparency in electricity (EWG)</i></b>	
# 9	Importance : Very important	EDF E possible participation: consultation : Y H&W : Y?
comments		

### 3.1.4 Regulatory aspects of electricity quality of supply

③	<b><i>CEER Guidelines of Good Practice on harmonised surveys on quality of electricity supply (EWG)</i></b>	
# 10	Importance : Important	EDF E possible participation: N/A
comments		

### 3.1.5 Regulatory aspects of sustainable development issues

④	<b><i>EREGG Response on energy efficiency (EWG)</i></b>	
# 11	Importance : Important	EDF E possible participation: N/A
comments	<i>As a new set of measures proposed by EC is expected in a short notice, we consider this deliverable quite outdated</i>	

④	<b><i>CEER Status Review of the implementation of the Climate and Energy Package (EWG)</i></b>	
# 12	Importance : Very important	EDF E possible participation: N/A
comments		

## 3.2 Gas

### 3.2.1 Regulatory aspects of grid management

① ⑥	<b><i>Pilot Framework Guideline on CAM &amp; CMP and Draft Comitology Guidelines (GWG)</i></b>	
# 13	Importance : Very important	EDF E possible participation: consultation : Y H&W : Y?
comments		

① ② ⑥	<b><i>EREGG Guidelines of Good Practice on CAM &amp; CMP to storage facilities (GWG)</i></b>	
# 14	Importance : Very important	EDF E possible participation: consultation : Y H&W : Y?
comments		

① ⑥	<b><i>Input to the Framework Guideline on gas balancing rules (GWG)</i></b>	
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# 15	Importance : Very important	EDF E possible participation: consultation : Y H&W : Y?
comments		

① ②	<b><i>EREGG Advice on best practices applied in all types of LNG terminals regarding congestion management procedures, anti-hoarding measures and notices periods (GWG)</i></b>	
# 16	Importance : Very important	EDF E possible participation: N/A
comments		

### 3.2.2 Regulatory aspects of gas infrastructure development

① ② ⑥	<b><i>EREGG Response to GTE+'s 10-year network development plan based on CEER model-based analysis (GWG)</i></b>	
# 17	Importance : Important	EDF E possible participation: consultation : N/A H&W : N
comments		

① ② ⑥	<b><i>EREGG Status Review of intra and inter-regional coordination of open seasons (RIG)</i></b>	
# 18	Importance : Important	EDF E possible participation: N/A
comments		

### 3.2.3 Regulatory aspects of tariffication

① ⑥	<b><i>Input to the Framework Guideline on harmonised transmission tariff structures (GWG)</i></b>	
# 19	Importance : Very important	EDF E possible participation: consultation : Y H&W : Y
comments		

① ②	<b><i>EREGG Benchmarking Report on storage tariffs (GWG)</i></b>	
# 20	Importance : Important	EDF E possible participation: N/A
comments		

## 3.3 Cross-sectoral

### 3.3.1 Regulatory aspects of customer affairs

①	<b><i>EREGG Guidelines of Good Practice on retail market monitoring (CWG)</i></b>	
# 21	Importance : Important	EDF E possible participation: consultation : Y H&W : Y
comments		

①	<b><i>EREGG Guidelines of Good Practice on regulatory aspects of smart metering</i></b>	
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	<b><i>for electricity and gas (CWG)</i></b>	
# 22	Importance : Important	EDF E possible participation: consultation : Y H&W : Y
comments	<i>Is the time schedule compatible with a roll out completed in 2020?</i>	

① ③	<b><i>ERREG Guidelines of Good Practice on customer complaint handling for service providers and third-party bodies (CWG)</i></b>	
# 23	Importance : Important	EDF E possible participation: consultation : Y H&W : Y
comments	<i>possible recommendations should stay at high level principles</i>	

③	<b><i>ERREG Status Review on end-user price regulation as of 1 January 2010 (CWG)</i></b>	
# 24	Importance : Important	EDF E possible participation: N/A
comments		

③	<b><i>ERREG Compliance Monitoring Report on the implementation status of DSO unbundling (ENP WG)</i></b>	
# 25	Importance : Important	EDF E possible participation: N/A
comments	<i>possible recommendations should stay at high level principles, we can note that not many provisions are aiming at fostering competition</i>	

### ***3.3.2 Regulatory aspects of wholesale energy markets***

⑤	<b><i>ERREG Advice on the regulatory oversight of energy exchanges (FIS WG)</i></b>	
# 26	Importance : Important	EDF E possible participation: N/A
comments		

⑤	<b><i>ERREG Response on market supervision issues (FIS WG)</i></b>	
# 27	Importance : Very important	EDF E possible participation: consultation : N/A H&W : ?
comments		

⑤	<b><i>ERREG Response on transparency in energy trading (FIS WG)</i></b>	
# 28	Importance : Very Important	EDF E possible participation: N/A
comments		

⑤	<b><i>CEER Response on interdependencies with other markets (FIS WG)</i></b>	
# 29	Importance : Very important	EDF E possible participation: consultation : Y H&W : N/A
comments		

⑤	<b><i>ERREG Advice on wholesale trading licenses (FIS WG)</i></b>	
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# 30	Importance : Very important	EDF E possible participation: N/A
comments		

①	<b><i>Status Review on the ERGEG Regional Initiatives (RIG)</i></b>	
# 31	Importance : Important	EDF E possible participation: N/A
comments		

### 3.3.3 Institutional issues of national regulatory authorities and the Agency

①	<b><i>CEER Advice on the modification and enforcement of network codes (ENP WG)</i></b>	
# 32	Importance : Important	EDF E possible participation: N/A
comments		

①	<b><i>ERGEG Status Review of the liberalisation and implementation of the energy regulatory framework (ENP WG)</i></b>	
# 33	Importance : Important	EDF E possible participation: N/A
comments		

① ⑥	<b><i>ERGEG Conclusions Paper on a strategy for delivering a more integrated European energy market through the Regional Initiatives (RIG)</i></b>	
# 34	Importance : Important	EDF E possible participation: N/A
comments		